Barbour. - Ohio

OHIO

STATE BAR ASSOCIATION.

REPORTS, VOL. XVII.

PROCEEDINGS

OF THE

Annual Meeting of the Association,

HELD AT

PUT-IN-BAY,

July 15, 16 and 17, 1896.

CONSTITUTION, BY-LAWS, LIST OF OFFICERS, MEMBERS, &c.

COLUMBUS, OHIO:
THE BERLIN PRINTING COMPANY.
1896.

INDEX.

OHIO
STATE BAR ASSOCIATION.

CONSTITUTION.

I. NAME.

This Association shall be known as "THE OHIO STATE BAR ASSOCIATION."

II. OBJECT.

The Association is formed to advance the science of jurisprudence, to promote reform in the law, to facilitate the administration of justice, to uphold integrity, honor and courtesy in the legal profession; to encourage thorough liberal legal education, and to cultivate cordial intercourse among the members of the bar.

III. MEMBERSHIP.

The members of the bar attending this Convention as delegates this eighth day of July, 1880, are hereby declared to be members of this Association, provided they shall, during the present session, pay the admission fee and sign the Constitution. Any member of the bar, of good standing, residing or practising in the State of Ohio, may become a member of the Association upon nomination and vote, as hereinafter provided.

IV. ELECTION OF MEMBERS.

All nominations for membership shall be made by the Committee on Admissions, and must be transmitted in

writing to the President and by him reported to the Association, and if any member demands a vote upon any name thus reported, the Association shall thereupon vote thereon by ballot. Several nominees may be voted upon on the same ballot, and in such a case the placing of the word "no" against any name or names upon the ticket shall be deemed a negative vote against such name or names, and against those only. One negative vote in every five shall suffice to defeat an election. No member of the bar residing in a county where there is a local bar association, shall become a member of this Association unless he shall also be a member of such local association.

V. OFFICERS.

The officers of the Association shall be a President, who shall deliver the annual address, and be eligible for a second term; one Vice-President for each judicial district reported by membership in the Association; a Secretary and Treasurer. All of these shall be elected at the annual meeting, and hold their office until the next annual meeting of the Association, and until their successors are elected.

VI. COMMITTEES.

The president shall, with the approval of the Association, appoint the following Standing Committees: An Executive Committee, a Committee on Admissions, a Committee on Judicial Administration and Legal Reform, a Committee on Legal Education, a Committee on Grievances, and a Committee on Legal Biography. And each Standing Committee shall be composed of one member from every judicial district represented in the Association. A majority of the members of every committee who may be present at a meeting of the Association shall constitute a quorum of such committee for the purposes of such meeting.

Every committee shall, at each annual meeting, report in writing a summary of its proceedings since the last annual report, together with any suggestions deemed suitable and appertaining to its powers, duties, or business. A general summary of all such annual reports and of the proceedings of the annual meetings shall be prepared and printed by and under the direction of the Executive Committee, together with the Constitution, By-Laws, names, and residences of officers, Standing Committees, and members of the Association, as soon as practicable after each annual meeting.

VII. FINAL ACTION.

No action of the Association of a permanent nature, or recommending changes in the law or the administration of justice, shall be final until approved by the Standing Committee to which the same shall be referred by the Association.

VIII. PRESIDENT.

The President, or, in his absence, the senior Vice-President, shall preside at all meetings of the Association, and the President shall deliver an address at the opening of the meeting next after his election.

IX. EXECUTIVE COMMITTEE.

The President and Secretary shall be *ex-officio* members of the Executive Committee. The Committee shall manage the affairs of the Association, subject to the provisions of the Constitution and By-Laws, and shall be vested with the title to all its property as trustees thereof, and shall make By-Laws for the Association, subject to amendment by the Association.

X. COMMITTEE ON ADMISSIONS.

The proceedings of this Committee shall be deemed confidential, and shall be kept secret, except so far as

written or printed reports of the Committee shall be necessarily and officially made to the Association.

XI. COMMITTEE ON JUDICIAL ADMINISTRATION AND LEGAL REFORM.

It shall be the duty of the Committee on Judicial Administration and Legal Reform to take record of all proposed changes of the law, and to recommend such as may be, in its opinion, entitled to the favorable influence of the Association; and, further, to observe the working of the judicial system of the State, to collect information with reference thereto, and to recommend such action as it may deem advisable.

XII. COMMITTEE ON LEGAL EDUCATION.

It shall be the duty of the Committee on Legal Education to examine and to report what change it is expected to propose in the system of legal education and of admission to the practice of the profession in the State of Ohio.

XIII. COMMITTEE ON GRIEVANCES.

The Committee on Grievances shall receive all complaints which may be made in matters affecting the interests of the legal profession, the practice of the law and the administration of justice, and report the same to the Association, with such recommendations as it may deems advisable.

The proceedings of this Committee shall be deemed confidential and kept secret, except so far as reports of the same shall be necessarily and officially made to the Association.

XIV. COMMITTEE ON LEGAL BIOGRAPHY.

The Committee on Legal Biography shall provide for the preservation among the archives of the Association of suitable written or printed memorials of the lives and

characters of deceased members of the Ohio Bar, and procure and report to the next annual meeting a short biographical sketch of each member whose death shall have been reported at any annual meeting. [*Amended December 28, 1886.*]

SECRETARY.

The Secretary shall keep a record of the proceedings, and conduct the correspondence of the Association, and perform the usual duties of such office.

TREASURER.

The Treasurer shall collect and by order of the Executive Committee disburse all funds of the Association, and keep regular accounts, which at all times shall be open to the inspection of any member or members of the Executive Committee.

ANNUAL MEETING.

The Association shall meet annually at such time and place as the Executive Committee may select, and those present at such meeting shall constitute a quorum.

DUES.

The admission fee will, in all cases, be $2. The annual dues of members shall be $2, to be paid yearly on or before the first day of the annual meeting of the Association, and after each annual meeting the Treasurer shall notify each member in arrears for dues of the amount due; and any member who shall remain in default for dues until the close of the annual meeting next following such default, shall be suspended and dropped from the rolls, and shall not be reinstated until all back dues are paid; provided, however, that in case such back dues amount to more than $5 such member may, upon recommendation of the Committee on Admissions, be reinstated on payment

of the sum of $5. [*Amended December 28, 1886, and July 15, 1892.*]

AMENDMENTS.

This Constitution may be altered or amended by a vote of a majority of the members present at any annual meeting, with the approval of the Executive Committee.

BY-LAWS.

The following By-Laws prepared by the Sub-Committee appointed for that purpose were adopted in the month of September, 1881, by the following indorsement written thereon:

APPROVED.

The undersigned members of the Executive Committee hereby consent that a meeting of the Committee to consider the within By-Laws be dispensed with, and that said By-Laws be considered as adopted and be published by the Secretary with his report.

RUFUS KING.
JOHN W. HERRON.
J. T. HOLMES.
L. J. CRITCHFIELD.
GEO. W. HOUK.
JOHN F. BROTHERTON.
WARREN P. NOBLE.
GEO. W. GEDDES.
CHAS. H. GROSVENOR.
D. A. HOLLINGSWORTH.
WM. H. UPSON.

I. The Executive Committee, at its first meeting after each annual meeting of the Association, shall select some person to make an address at the next annual meet-

ing, on the life and services of any deceased member of the bench or bar of Ohio, of eminence, or other subject; and also not exceeding five members of the Association to read papers.

II. The Order of Exercises at the annual meeting shall be as follows:

(*a*) Annual Address of the President.

(*b*) Report of Committee on Admission and Election of Members.

(*c*) Report of Secretary.

(*d*) Report of Treasurer.

(*e*) Report of Standing Committees:

Executive Committee.

On Judicial Administration and Legal Reform.

On Legal Education.

On Grievances.

On Legal Biography.

(*f*) President's call upon each Judicial District for names of deceased members.

(*g*) Reports of Special Committees.

(*h*) The Nomination of Officers.

(*i*) The Appointment of Standing Committees.

(*j*) Miscellaneous Business.

(*k*) The Election of Officers.

The address to be delivered by a person invited by the Executive Committee shall be at the morning session of the second day of the annual meeting, and the reading of papers by the members appointed by the Executive Committee on the same day, unless the Executive Committee shall designate some other time for the address and reading of papers. After the reading of each paper an opportunity shall be given for discussion on the topic of the paper.

The Executive Committee shall publish, some days in advance of each annual meeting, a statement of the person who is to deliver the address, and the persons who

are to read papers, and the subject of each. [*Amended December 28, 1886.*]

III. No person taking part in a discussion shall speak more than ten minutes at a time, or more than twice on one subject. A stenographer shall be employed at each annual meeting.

IV. At any of the meetings of the Association, members of the bar of any foreign country or of any state other than Ohio, who are not members of the Association, may be admitted to the privileges of the floor during such meetings.

V. All papers read before the Association shall be lodged with the Secretary. The annual address of the President, the reports of the Committees, and all proceedings at the annual meeting shall be printed; but no other address made or paper read or presented shall be printed, except by the order of the Executive Committee. Extra copies of reports, addresses, and papers read before the Association, may be printed for the use of their authors, not exceeding one hundred copies to each of such authors.

The Executive Committee, as a Committee on Publications, shall meet within one month after each annual meeting, at such time and place as the Chairman shall appoint.

VI. The terms of office of all officers elected at any annual meeting shall commence at the adjournment of such meeting; but the terms of office of the members of the several committees appointed by the President shall commence immediately on their appointment.

VII. Each committee shall elect its own officers, whose terms of office shall commence on their election and continue until the appointment of a new committee. And each Standing Committee shall continue until its successor shall be appointed.

VIII. All Standing Committees shall meet on the day preceding each annual meeting, at the place where the same is to be held, at such hour as the respective chairmen may designate.

IX. Special meetings of any committee shall be held at such times and places as the chairman thereof may appoint. Reasonable notice shall be given by him to each member by mail.

X. The Treasurer's report shall be examined and audited annually, before its presentation to the Association, by two members to be appointed by the Chairman of the Executive Committee.

MEMORANDA.

All judges and ex-judges of the Supreme Court of Ohio are *ex-officio* members of this Association. I. Rep., 17.

All judges and ex-judges of the United States Courts, who are members of the Ohio Bar, are *ex-officio* members of this Association. VI. Rep., 157.

At each annual meeting of the Association a committee, consisting of three members, to be styled the Committee on Railroads and Transportation, shall be appointed by the President of the Association, whose duty it shall be, at least six weeks prior to the next ensuing annual meeting, to negotiate and complete all practicable arrangements for reduced rates of travel to those attending, and through its Chairman, at least four weeks before the annual meeting, advise the Chairman of the Executive Committee and the Secretary of the Association of arrangements made, so that the same may be printed in the notices and programmes sent out to members in advance of the meeting. [*Adopted from Secretary's Report, July 18, 1889, 10 Rep., 121.*]

Resolved, That all applications for membership shall be accompanied with the membership fee, and upon

default so to do, such application shall be returned without delay to such applicant by the Secretary of the Association or Committee on Admissions. [*Adopted by the Association, July 18, 1890, 11 Rep., 124.*]

The Seventeenth Annual Session

OF THE

Ohio State Bar Association,

HELD AT THE

Hotel Victory, Put-in-Bay, Ohio.

PUT-IN-BAY, OHIO, July 15, 1896.

The Seventeenth Annual Session of the Ohio State Bar Association convened this day, at 2:30 p. m., at the auditorium of the Hotel Victory, and the Association was called to order by Hon. J. D. Sullivan, Chairman of the Executive Committee.

MR. SULLIVAN: It is now my duty to call to order the Seventeenth Annual Meeting of the Ohio State Bar Association. I have to announce to the Association, with a sincere regret—a regret which I am sure every member of the Association will share with me—the serious, if not very dangerous, illness of our President, John J. Hall, of Akron. Mr. Hall informed the Executive Committee a short time ago that he would be unable to attend this meeting on account of his illness, The Executive Committee therefore notified the Senior Vice-President of the Association, Hon. John F. Follett, of Cincinnati, that he would be expected to preside at this meeting, and requested him to do so, and to prepare the usual address. Mr. Follett very kindly accepted the duty imposed upon him, and is here in response thereto. The Executive

Committee desire your approval of their selection of Mr. Follett as presiding officer of this meeting, and I therefore put the question to you for your approval.

The action of the Executive Committee was approved unanimously.

MR. SULLIVAN: I now have the pleasure of introducing to you the presiding officer of this meeting, the Hon. John F. Follett, of Cincinnati.

Mr. Follett delivered the annual address of the presiding officer. (See Appendix No. 1.)

THE PRESIDENT: The next business in order is the report of the Committee on Admission and Election of Members.

Mr. Mykrantz, chairman of that committee, presented the following report:

REPORT OF COMMITTEE ON ADMISSIONS AND ELECTIONS.

To the Ohio State Bar Association:

GENTLEMEN—Your Committee on Admission and Election respectfully submit the following report:

We present the names of the following named lawyers for membership in this Association, as follows:

Sherman M. Granger, Zanesville.
L. K. Parks, Toledo.
Johnston Thurston, Toledo.
Amor W. Sharp, Columbus.

Your committee have found, on investigation, that all the gentlemen named possess all the qualifications required by the Constitution of this Association for membership, and we certify that they have complied with all the provisions of the Constitution for admission as members, and we therefore recommend their election.

Your committee also desire the privilege of supplementing this report by presenting other names for membership, if we find the same necessary during the progress of this meeting.

H. A. MYKRANTZ, *Chairman.*

GOV. JONES: I move the adoption of the report and the election of the candidates.

Seconded, and carried unanimously.

THE PRESIDENT: The next business is the report of the Secretary.

The Secretary read his annual report, which was as follows:

SECRETARY'S REPORT.

PUT-IN-BAY, July 15, 1896.

Mr. President and Gentlemen:

In submitting my report as Secretary of the Ohio State Bar Association, I wish to acknowledge the courtesies extended to me by my very efficient predecessor, Mr. Bryan, and desire to call attention to what has been a well-known fact to those more nearly connected with the management of the Association, viz., the very conscientious and admirable way in which Mr. Bryan performed the duties of Secretary during the last four years.

Inasmuch as the preparation of the report of last year's meeting fell to the part of the former Secretary, my duties as Secretary have mainly consisted in conducting the correspondence of the Association, and my report therefore will be correspondingly short.

As *ex-officio* member of the Executive Committee, however, my duties were not so light.

I do not conceive it to be the duty of the Secretary of a body like this, in a report, to discuss matters of general interest, as the office is one nearly connected with the

practical working of the Association, and it is in strengthening and enlarging the Association that the Secretary can best further its objects.

It is the Secretary who is most closely in touch with the members, and who hears their comments and praises.

The Ohio State Bar Association is much more of an influential factor than is generally believed; and the criticisms and reflections which have been cast upon the Association, by those who are unfamiliar with its work, are confounded by the practical results in several movements which were inaugurated in the Association, and have been carried forward by the sentiment aroused by discussion at its meetings, and by committees of its members appointed for such purposes.

The extension of the course of study for admission to the bar; the enlargement of the State House to provide facilities for the Supreme Court; the adoption of the Torren's System of Real Estate Records:—these are some of the results which can be traced to the efforts of this Association.

There remain yet lines of its work which have not been brought to definite conclusions, notably the increasing of the salaries, and lengthening of the terms of office of the Supreme Court Judges, and the securing of uniformity in the legislation of the several states.

The work of the Association is now beginning to bear fruit, and in the future we may expect that the Ohio State Bar Association will sway a yet wider influence, and accomplish yet greater results, in those peculiar fields where the legal profession can detect an evil and apply the remedy.

Apropos of the situation, having in view the present results that are accomplished and the many improvements that may yet be accomplished through the work of the Association, I beg to suggest that the membership of the Ohio State Bar Association is not so large as the numbers

of the profession in Ohio justify, and that its influence may be made correspondingly stronger and its work correspondingly more effective.

Now that Put-in-Bay has apparently become the permanent meeting place, and in view of the fact that ample hotel accommodations are now provided, I beg to suggest that the time is ripe for concerted action looking to the enlargement of the membership.

With this end in view I suggest the appointment of a suitable committee, having a member in each county, for the purpose of securing additional members.

That this special committee should be composed of men who have both the willingness and the ability to exert an influence over members of the bar in their vicinities, and that they act either in conjunction with, or under the direction of, the membership committee.

Such a committee could bring before the members of the bar the benefits to be obtained from the Association, and a better realization of what it has accomplished.

I beg, however, to submit that I have during the past year incurred expenses for the following items:

Expressage, storage, &c	$10.60
Telegrams	1.00
Postage	3.00
Clerical assistance	15.00
Total	$29.60

Respectfully submitted,

H. B. ARNOLD, *Secretary.*

MAJOR BRYAN: I move that the Treasurer be authorized to draw an order for the payment of the bills incurred by the Secretary.

JUDGE PIKE: I would add as an amendment, that the recommendations be referred to the Executive Committee.

MAJOR BRYAN: I accept the amendment.

The motion as amended having been seconded, was carried unanimously.

THE PRESIDENT: The next is the report of the Treasurer.

The Treasurer read his annual report, which was as follows:

PUT-IN-BAY, O., July 15, 1896.

TREASURER'S REPORT.

To the Ohio State Bar Association:

The undersigned herewith begs leave to submit his Ninth Annual Report and Financial Statement:

1895.

July 15.	To cash deposited and in the hands of Treasurer...	$ 735.70
17.	To fees from admission of 37 new members.....	74.00
17.	To dues from 12 members reinstated.....	62.00
18.	To dues paid by 77 members during session.....	187.00
18.	To dues to date for 1895 and previous years.....	341.25
18.	To dues to date for 1896.....	44.00
18.	To interest on bank deposits.....	8.00
		$1,451.95

The Treasurer claims credits for disbursements:

July 18.	By cash paid Beebe & Son for banquet.....	$ 405.00
18.	By cash paid Judge Parker's bill.....	11.00
18.	By cash paid Secretary Bryan balance of his bill of expenses.....	20.39
18.	By cash paid Committee on Legal Biography.....	11.00
18.	By cash paid Committee on Admissions.....	2.00
18.	By cash paid Janitor.....	3.00
18.	By cash paid express charges on books from Put-in-Bay to Toledo.....	.40
31.	By cash paid Emery & Smith, stenographers.....	60.00
Aug. 8.	By cash paid Edward Kibler's telegram.....	.40
Dec. 8.	By cash paid printing 100 postal cards and stationery.....	2.10
8.	By cash paid envelopes and other printing.....	1.00
8.	By cash paid postage for Treasurer.....	8.47
8.	By cash paid bank charges for collecting checks...	.60

1896.

January.	By cash paid E. H. Fitch, Com. on Leg. Reform and Jud. Administration	$ 57.90
March.	By cash paid Toledo Legal News Co. for printing annual report	232.32
	By cash paid Major Bryan	86.57
	By cash paid Treasurer for compensation	75.00
	By cash paid chairman Executive Committee	50.00
	By cash paid telegram from Secretary	.25
	By cash paid express charges on books to Put-in-Bay	.60
	By cash paid stenographer for printing this report.	.50
	Cash on deposit	252.00
	Cash in hands of Treasurer	171.45
		$1,451.95

From the above Financial Statement it will be seen that the disbursements during the preceding year have been nearly $300.00 more than the receipts; that after deducting the admission fees and interest on deposit and $62.00 from reinstated members only $503.00 was received for dues for 1895 and previous years from the remaining 342 members on the rolls, and many of these, unless they pay during the present session, will probably have to be dropped from the rolls.

I regret to say that this is not the worst feature that presents itself when we examine the reported proceedings of the Association relative to payment of dues by its members. Since December, 1887, when the undersigned was elected your Treasurer, 390 new members were admitted and about 40 old members were reinstated under the Resolution adopted in July, 1892, to permit delinquent members owing more than $5.00, to be reinstated on payment of $5.00. Probably 50 or 60 have died since then, and a few removed from the state, or have withdrawn for other reasons. There are now on the roll of paying members only about 390 and many of these are delinquent. What has become of the 350 others dropped from the rolls? Your Treasurer has never entered any one suspended until after two years and after at least three notices of his delinquency. I can account for a large number of those

suspended, perhaps 150 of them. There were annually admitted from 25 to 90 new members, but after the banquet which they and their ladies honored with their presence, we never hear of them any more; they never pay dues after that—perhaps the quality of the banquet was at fault.

Net results: about $350.00 less money in the treasury than when I was elected in 1887, and not many more members than when the Association was organized in 1880.

I still think the Treasurer might be a useful member of the Executive Committee, as recommended last year by resolution of the Association, to be found on page 46 of the last Annual Report. The Treasurer was instructed to purchase a new set of the Revised Statutes of Ohio, for the use of the Standing Committees of the Association during its session. I have the pleasure to report that while the Treasurer has not strictly obeyed your orders, I herewith am able to present two sets of the seventh edition of the Revised Statutes. Through the kindness of Senator Laning, a member of this Association, and Representative C. H. Beckham, of Toledo, I arranged to have at least one set furnished us free of expense. The former of the two gentlemen succeeded so well that the Robert Clarke Company, of Cincinnati, sent one set with its compliments to the Association, and the Hon. Carl Beckham sent another set. Both of the gentlemen, as well as the Robert Clarke Company, deserve the thanks of the Association for their kindness and politeness.

Respectfully submitted,

L. H. PIKE, *Treasurer.*

We have examined the foregoing Financial Report of the Treasurer and find the same correct,

J. D. SULLIVAN,
G. W. CARPENTER,
JAMES O. TROUP,
For Executive Committee.

MR. MARSHALL, Dayton: I move that the report be received and adopted.

Seconded and carried.

THE PRESIDENT: The next business in order is the report of the Standing Committees. First, the Executive Committee. Is that committee ready to report?

MR. SULLIVAN: *Mr. President and Gentlemen of the Association*—The Executive Committee has had frequent meetings since the last adjournment. Judge Moore, of Cincinnati, who was the chairman, resigned in April last, and I was selected in his stead. Since then we have endeavored, to the best of our ability, to make this meeting a success. We have worked laboriously to accomplish that purpose. We have prepared a program for your entertainment, which we hope will be found acceptable and agreeable to you. We desire to announce that one change will be made in that program. General Finley, who was to deliver an address this afternoon, does not seem to be here, and Mr. Wilson, of Youngstown, has kindly consented to change places with him and deliver his address this afternoon. Mr. Tucker is now at Cleveland and will be here to-morrow, and deliver his address to-morrow afternoon. There will be an excursion to-morrow evening on the steamboat "Arrow," to which the members of the Association and their families are cordially invited. There will be no tickets on that occasion, and I am authorized to say there will be reasonable refreshments on board the boat. The Executive Committee has incurred some expense in the printing of postal cards and programs and postage, as follows: Printing postal cards and programs, $15.25; postage, $5; clerical assistance, $15; total, $35.25. This is exclusive of the $50 which the treasurer announced as paid to a gentleman who will be here to-morrow. All of which is respectfully submitted for your approval.

JUDGE PIKE: I move the adoption of the Committee's report, and that the Treasurer be authorized to repay the amount expended by them.

Seconded and carried.

THE PRESIDENT: The next is the report of the Committeee on Judicial Administration and Legal Reform.

Mr. E. H. Fitch, of Jefferson, made the report of the committee, which was as follows:

REPORT OF THE COMMITTEE ON JUDICIAL ADMINISTRATION AND LEGAL REFORM.

PUT-IN-BAY, OHIO, July 15, 1896.

To the Ohio State Bar Association:

GENTLEMEN: Your Committee on Judicial Administration and Legal Reform makes the following report:

The committee met here, and organized, and divided the matters referred to it to sub-committees, and adjourned to meet at the Neil House, Columbus, on the 21st day of January, 1896.

At that meeting the various matters referred to it by the Association were under consideration, and action was taken thereon, as hereinafter fully set forth.

The following subjects were referred to this committee, as shown by the report of last year. (See page 43.)

First—The question of fees and salaries of officers. This subject was referred back to the committee, with instructions to confer with the proper committee, appointed at the next General Assembly, and prepare a bill for their consideration, which shall embrace the recommendations proposed by this Association last year and now renewed.

Second—The bill reported by this committee last year, in regard to taking effect of laws passed by the General Assembly.

Third—The question of prohibiting preferences within thirty days prior to an assignment.

Fourth—The question of providing for and limiting the taking of judgments on warrants of attorneys.

Fifth—The matter of disbarment of attorneys.

Sixth—That the county commissioners be included in the salary bill.

Seventh—The resolution upon the question of the uniformity of legislation in the United States.

Eighth—In the matter of the increase of compensation to be allowed to the Judges of the Supreme Court of Ohio.

Ninth—The resolution submitted by the committee, as a substitute for the resolution offered by Judge Lawrence, in reference to binding the records and briefs of counsel, filed in cases in the Supreme Court.

Tenth—The resolution offered by Judge Lawrence, in regard to the expediency of providing that in all cases taken to the Supreme Court any party may require a re-examination of the evidence in the case as fully as if there had been no finding of facts by the Circuit Court.

Eleventh—The resolution providing that in any cause pending in the Court of Common Pleas involving difficult and important questions of law not before settled by the Supreme Court, the parties in such action may agree that the question shall be certified directly to the Supreme Court for decision, and the Common Pleas Court shall order the said cause to be so certified.

Twelfth—That this committee is directed to consider and report upon the expediency of providing by law that no injunction shall be allowed without notice to parties adversely interested.

The committee met at the Neil House, pursuant to adjournment, on the 21st day of January. Only five members were present. They appeared before the Judiciary Committee of the House, and afterwards before the Senate Judiciary Committee.

To both said committees the full statement of the action of this Association was made, and the bills prepared by the committee were given in charge to those committees, as follows:

First—A bill in regard to preferences, being substantially the same as reported to this Association by this committee last year.

Second—The bill providing when general laws shall take effect.

Third—A bill in reference to taking judgments upon warrants of attorneys.

Fourth—A bill providing for a commission to secure uniformity of legislation in the United States.

These were the only bills prepared by your committee which were submitted to the Legislature. We, however, called the attention of the General Assembly, through its two Committees on the Judiciary, to all the other matters referred to us, as above stated.

We did not think it advisable to prepare a bill upon the question of fees and salaries, as we found several such bills had been introduced in each branch of the General Assemby, and were then pending.

We stated the action of this Association upon the question of county commissioners being included among the salaried officers. The Legislature seemed to approve of this, but not in the way desired by this Association or your committee.

The acts of last winter will show eighteen separate acts passed, providing for the paying of the county commissioners by salaries in as many different counties, which, with those already passed, make over one-fourth

of the counties of the State in which the commissioners are paid by salaries.

These bills are none of them precisely alike, and the compensation provided for is not at all uniform, nor upon the same basis, seemingly fixed by caprice, or the lowest sum for which they think the commissioners would serve.

If this state of things continues we may look very shortly not only for eighteen, but eighty-eight different acts providing for the salary of county commissioners in Ohio.

If these are taken as precedents we may soon expect to see upon our statutes eighty-eight laws providing for the compensation of each of the various county officers.

This is an evil that ought to be remedied, and which, in the opinion of your committee, this Association should exert all its power and influence to counteract and prevent.

First—We are of the opinion that as to all officers, except that of probate judge, the tendency of legislation is sufficiently pronounced to enable us to rely upon its action to correct the evils we are seeking to remedy. The mode may not be well advised, nor perhaps strictly constitutional, but the end aimed at is being reached.

Your committee, therefore, ask to be discharged from further action as to such officers. As to the office of probate judge other considerations are presented. That office concerns judicial administration in such vital form, as, in our judgment, to demand further and earnest action, and its early relief from the vicious mode of compensation by fees. It is calculated to impair the usefulness of the judge, injure the administration of justice by him, by embarrassing him with questions of account between himself and suitors, and in the end to hurtfully lessen the confidence and respect of the people for the court. We think the probate judge is entitled to be placed upon an

equal footing of independence and dignity with other high judicial officers in the State, as soon as it can be done. We think, therefore, that the committee should be charged with further instructions to provide a mode of compensation for the probate judges, by reasonable salaries instead of by fees. Your committee further recommends that a law be passed, requiring, as a qualification for the office of probate judge, that the office shall be filled only by a regularly admitted attorney-at-law. We deem this now an essential qualification, as the jurisdiction of the probate court has been so extended as to require the judge of that court to pass upon and decide the most intricate questions of law and equity.

Second—Upon the question in regard to taking effect of laws, your committee report: They ask to be discharged from further duties with reference to the bill substituting the 1st of September for the 1st of May as the time when laws, which do not otherwise specify, shall take effect. It is evident that the Legislature does not see in this bill any promise of relief from the difficulty which it was intended to relieve, but in some degree the difficulty is being lessened by the earlier publication of the laws as passed, and by the action of the Legislature in requiring earlier printing of the laws.

Third—Upon the question of preferences your committee ask that that question be referred back for further consideration by them, and for the preparation of a bill in accordance with the instructions of this Association.

Fourth—Upon the question of judgments on warrants of attorney, your committee drafted the following bill and presented it to the Legislature:

A BILL

To amend Section 5324 of the Revised Statutes of Ohio.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That Section 5324 of the Revised Statutes of Ohio be, and the same is hereby, so amended as to read as follows:

Section 5324. An attorney who confesses judgment in any case shall, at the time of making such confession, produce the warrant of attorney for making the same to the court before which he makes the confession; and the original warrant, or a copy thereof, shall be filed with the clerk of such court. No judgment shall be rendered on confession of judgment by an attorney, in any action on a promissory note with warrant of attorney, unless it is made to appear by the petition filed therefor, that the defendant, or one of the defendants, in whose behalf such judgment is sought to be confessed, resides in the county where such action is brought, or that no court of competent jurisdiction to render such judgment is in session in the county of the residence of any such defendant, when resident of this State, or that none of said defendants are residents of this State.

In the case of a corporation, or of a partnership, sued as such, that county shall be deemed and held its place of residence, for the purposes of this section, where its principal office or principal place of business is located within this State.

SECTION 2. This act shall take effect and be in force from and after September 1st, 189–.

This bill the Legislature failed to pass. Your committee recommend that the same be referred to this committee for future action, as recommended last year.

Fifth—Upon the question of disbarment of attorneys, in the opinion of your committee, the present statute,

taken in connection with the action of the Supreme Court, is sufficient to accomplish the end sought, and to protect the bar from unworthy members; whereupon your committee asks to be discharged from further consideration of this subject.

Sixth—We have already reported upon the question of the county commissioners being included in the salary bill, and paid by salary rather than fees.

Seventh—Bill prepared by the committee upon the question of uniformity of legislation in the United States having failed to pass, committee report in favor of re-reference of this subject to this committee. The following is the blll presented to the Legislature by the committee :

A BILL

Authorizing the appointment of commissioners for the promotion of uniformity of legislation in the United States.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That the Governor shall appoint three commissioners, who are hereby constituted a board of commissioners by the name and style of "Commissioners for the Promotion of Uniformity of Legislation in the United States." It shall be the duty of said board to examine the subject of marriage and divorce, insolvency, descent, and distribution of property, the form of notarial certificates, acknowledgment of deeds, execution and probate of wills, and other subjects on which uniformity of legislation is desirable, to ascertain the best means to bring about uniformity in the laws of the states, and to represent the State of Ohio in conventions of like commissions appointed by other states for the consideration and recommendation of uniform forms of laws to be submitted to the several state legislatures for action, and to devise and recommend such other course of action as shall best accomplish the purposes of this act.

SECTION 2. All vacancies which may occur in said board shall be filled by the Governor by appointment. Any commissioner may be removed by the Governor.

SECTION 3. Said board may employ such persons and incur such other expenses as they may deem necessary for the proper discharge of their duties, the bills for which shall be paid on the warrant of the Auditor of State when approved by the Attorney-General, but no member of said board shall receive any compensation for his services as commissioner.

SECTION 4. Said board shall report annually to the Governor, on or before the first day of November, an account of its transactions, and its advice and recommendations in accordance with the first section of this act.

SECTION 5. This act shall take effect and be in force from and after its passage.

We ask the Association to refer this matter to this committee, for further action upon the lines above suggested.

Eighth—In reference to increase of salaries of the Judges of the Supreme Court, your committee ask that they be instructed to urge upon the Legislature the passage of a bill fixing their salaries at $8,000, and that this matter be referred back to the committee for action upon the foregoing amount as the salary of the Supreme Court Judges.

Ninth—Your committee renews its recommendations for the passage of an act in accordance with the resolution offered by your committee, and found upon page 55 of the report of last year, in reference to binding the records and briefs filed in the Supreme Court. We are of the opinion that this should be done not only in the future, but that all those now preserved in the office of the Clerk of the Supreme Court be bound, and that the clerk of that

court should be given this authority, and that an allowance should be made to him to cover the expense and time necessarily involved in doing this work. We recommend, further, that this question be referred back to this committee to draft a bill and secure its passage, if possible, by the next Legislature.

Tenth—Your committee report adversely upon the resolution for the passage of an act providing that in all equity cases taken to the Supreme Court, either party may require a re-examination of the evidence in the case in that court, as fully as if there had been no finding of facts by the Circuit Court. In the opinion of your committee, this is not expedient, and in the present condition of the docket of the Supreme Court it ought not to be permitted.

Eleventh—Your committee also report adversely against providing by statute for certifying directly from the Common Pleas Court to the Supreme Court any question of law.

Twelfth—Also, we request against providing by law that no injunction, without notice to parties adversely interested, be allowed.

As to these last three propositions so reported upon adversely, the committee ask to be discharged from the further consideration.

Thirteenth—Upon the questions made in the address of President Pratt, referred to this committee, the committee state that therein many instructive and important suggestions are made, but the committee are not prepared to recommend a re-codification of the civil code, and ask to be discharged from the further consideration thereof.

It is with a sense of sadness and bereavement that your committee announce the death of its oldest and most esteemed member, and former chairman, Judge Henderson Elliott.

He met with us at Columbus, and his uniform courtesy, engaging manner, and delightful companionship, as well as his wise counsel and earnestness in the work of the committee and of this Association, endeared him to all; and we each in his death feel the loss of a wise, kind and trusted friend.

All of which is respectfully submitted,

EDWARD H. FITCH,
WM. E. CUSHING,
W. M. BATEMAN,
F. S. MONNETT,
GILBERT D. MUNSON,
JNO. N. VAN DEMAN,
A. R. MCINTIRE,
Committee.

MR. BATEMAN: I don't know whether at this time, in connection with report of the Committee on Legal Reform, I should present some matters for the consideration of the Association which were submitted to it and finally to the committee, or whether they should be delayed until another time when I can more definitely, perhaps, present them.

MR. DILLON, Columbus: There are a number of matters which should be brought up, but with the program as made up, there will be no time until the order for miscellaneous business is reached.

THE PRESIDENT: The discussion of reports of committees is the last in the order of exercises to-morrow morning. I suppose these matters should be postponed until the discussion of these matters to-morrow.

MR. DILLON: Then I move you that the report of the Committee on Judicial Administration and Legal Reform, including the recommendations therein contained, be adopted.

MR. WHEELER, Lima: They should be received now—cannot be adopted.

MR. DILLON: That is what I mean.

So the report of the committee was received.

THE PRESIDENT: The next will be the Committee on Legal Education.

MR. PATTERSON, Columbus: This committee has no report, but I have some suggestions which I wish to offer on my own account. I am willing to offer them now, if it is the proper place.

THE PRESIDENT: If the committee has no report to make I take it that the proper time for the other matter would be to-morrow morning, when the discussion on the report itself would be the order.

The next in order is the report of the Committee on Grievances.

MR. RITCHIE, Cincinnati: The Committee on Grievances have not had a formal meeting. They will have a short report to make and ask until to-morrow morning to present it.

Further time was granted the committee within which to prepare its report.

THE PRESIDENT: The next is the Committee on Legal Biography.

MR. HARRIS, Bucyrus: I have, as chairman of your committee, a short report to make. There have been but few deaths reported during the last year, which is a matter of congratulation. The year before was a sad one for this Association, but this year Providence has been very kind and most of the members that were alive at the beginning of the present year, are living to-day. There was, however, a sad death, very sad indeed to this Association—that of Judge Elliott. It is also suggested

that L. J. Critchfield died during the year. I have a memorial that I was going to speak of. I have looked over the minutes, but I cannot find that Mr. Critchfield was ever a member of the Association. I can't find his name in the list, and I don't remember of ever having seen him present with us. I have a very interesting memorial of him. He was a prominent member of the Bar of Ohio, but I think under our constitution we cannot devote any of our pages to him. It does not come within my jurisdiction to speak of him. I knew him very well. We were friends for over a third of a century. (The records having been examined, Mr. Harris continued:) I am glad to be informed that the record is defective.

MR. SULLIVAN: He was one of the founders of this Association, and well known, and the memorial will go into the record, I hope.

MR. HARRIS: In regard to Judge Elliott—he was dear to us all. He was one of the most industrious, most painstaking, most zealous members we had; and next to his official duties at home, I believe his heart was set on this Association, as much as any other one object that he ever entertained in his most excellent mind. No memorial of him has been submitted to me, and I have not had time to prepare one myself, but I find in a Dayton paper the proceedings of the Montgomery County Bar Association, in which there is a very able, interesting and touching memorial of the judge. I recommend that it be inserted in our record, and if it is agreeable to the Association, I will prepare an introduction to it and let it be published as a part of the proceedings of this meeting.

The recommendation of Mr. Harris was agreed to.

MR. HARRIS: I will in this connection read a very short autobiography of the judge, furnished by himself, found on page 117 of the book which I hold in my hand, which is the property of the Association. There are 440

biographies in it, in a condensed form. Here is the one furnished by Judge Elliott in regard to himself:

"My residence is in Dayton, Ohio.

"I was born in Perquimaus County, North Carolina, August 17, 1827.

"I came to Ohio with my parents where I have resided ever since.

"I cannot state the exact date when I was admitted to the bar, but it was before the old Supreme Court at Columbus, about the 1st of January, 1851. The motion for an examining committee was made by Hon. Henry Stanbery, and I was examined by William Dennison, and sworn by Hon. R. P. Spaulding, Judge of the Supreme Court.

"I was married in the spring of 1851, in Montgomery County, Ohio, to Rebecca Snavely, daughter of John Snavely, Esq., of the same County. I have two children, both daughters.

"Before coming to the bench I have figured very little in official position, never having been an office seeker.

"I served two years as a member of the Board of Education of Germantown, in my county, and six years as a member of the Board of the City of Dayton.

"I was elected Judge of the Court of Common Pleas of the First Subdivision, Second District of Ohio, in October, 1871, and have served continuously ever since—thirteen years—and am now on my third term.

"By dint of hard struggles I acquired a fair common school education, mostly by study at home, I attended college in what was formerly Farmers' college, now Belmont college—near Cincinnati. I am an alumnus of that institution, with Hon. L. B. Gunckel and others, of Dayton, Judge A. B. Huston, Murat Halstead, and Bishop John M. Walden, of Cincinnati.

"My ancestors belonged to the Elliotts of North and South Carolina, and Georgia, who, with the Pinckneys and Rutledges, were the early settlers and patriots.

"My parents were too poor to afford me educational advantages—I was raised on a farm. By teaching school at from 75 cents to $1.25 per day, I earned money to pay my way in school."

There has also been placed in my hands a very interesting memorial of Allen G. Thurman, written by Herman Albery, of Columbus, Ohio. Inasmuch as Judge Nash is on the program for an address in regard to Judge Thurman, it probably would not be advisable to read this at present, but I recommend that it go in after the address that will be delivered by Judge Nash. This, in brief, is all of the report that I have to make. I can report that it is a matter of gratulation with us that death has dealt so kindly with this Association within the last twelve months.

THE PRESIDENT: The next in order is the call on judicial districts for the names of deceased members. The districts will be called in their order for these memorials and remarks.

MR. WHEELER, Lima: I do not believe that any member of this Association feels like having the death and loss of Judge Elliott passed by with what has been reported by the committee, and what will appear in the records of this meeting, and for that reason I rise to a question of privilege to make a motion that the Executive Committee be requested to have some eminent member of the Montgomery County bar prepare and deliver a memorial on Judge Elliott's life, at the next meeting of this Association.

Seconded, and carried unanimously.

The districts were then called in their order for reports as to deceased members.

MR. FERRIS, Cincinnati: Judge Hunt called my attention to the fact that two eminent members of the bar of Cincinnati died last year—Mr. William M. Ramsey, and Mr. Samuel J. Thompson.

THE PRESIDENT: The list of members does not include the name of Mr. Ramsey. I do not know personally whether he was a member or not. His son, Robert Ramsey, is a member, but his name does not appear.

MR. ARNOLD: I would like to say that Judge Thompson attended our last meeting, and I remember his saying that that perhaps would be one of the last efforts of his life; he did not expect to make another such a journey before his death.

MR. MARSHALL, Dayton: The second district is called for. There are a number of members here. Judge Shauck is not in at present. Therefore, I will speak briefly in reference to this matter and of the death of one of the members of this Association who resided in the second district—the Hon. Henderson Elliott, of Dayton, Ohio. Judge Elliott lived in the same city with the speaker, and I had the honor of a very intimate acquaintance with the judge for a number of years. For at least eight years prior to his death, when we were both in the city, I do not think that there was a week present when one of us did not spend some portion of an evening or part of a day in each other's house. I had reason to know him intimately and to appreciate him highly. He was a man that was remarkable, especially in some particulars, when we come to look at him and study him physically; for the first impression that he would make upon your mind was that he was a man in very delicate health, and necessarily physically very weak; but yet, notwithstanding that appearance—and the appearance had much of fact behind it—he was one of the most cheerful and one of the most companionable men that I ever met anywhere, at

any place, or under any circumstances. He was optimistic naturally in his very make-up. The bright side of life seemed to be always present with him, and I never met him that I did not feel that cheering up which followed from his cheerful, bright, and happy disposition. I was at his bedside on the Wednesday before he died, on Saturday, and I felt that it was not right for me to even allow myself to be intruded into his sick-chamber; but his daughter came to me and said: "I understand, and father has learned that you are going out to a family reunion of an old family of this county, which father has attended with you on two or three occasions, and he has a word that he wishes to send to that reunion to-day, and insists that you shall come in and see him now." I went in, and I looked at him on the bed as he lay there, and there scarcely seemed enough of his person to indicate that there was any person under the sheet, and his face, always white, seemed to be unusually so; but notwithstanding that weak, emaciated condition, when he was barely able with an effort to lift his hand but a little piece, he shook me by the hand as heartily as it was possible, and smiled, and seemed to have a cheerful feeling, almost like a man who was in the prime of life and in the best of physical health. He said: "Marshall, you are going to attend the Kimball reunion to-day. I only wish that I was able to go with you and enjoy that reunion, and the many good things that they will have there; but say to them for me, that whilst I am not able to be there in body, as far as it is possible I will be with them in spirit, and cheer them up and say to them that I am as happy and as well as a sick man can be." Yet there was a something about it—a smile, a serene happiness, no show or appearance of pain, his face without pain or anything of the kind; and as he held me by the hand I believed, "Judge, it cannot be possible that you can be with us for many days." I never met him, let the circumstances be

what they were, that he was not cheerful and happy, and he was one of the most warm-hearted and sympathetic men that I ever knew.

Judge Elliot was on the bench in our county for nearly twenty-five years. His twenty-five years of consecutive service as a Judge of the Common Pleas of that county would have been up on the fifth day of next October, and no man knew him, especially the bar, but to honor and respect him. He was one of the most painstaking and industrious men that I ever knew upon the bench. In fact, I felt frequently—I might say generally—that he gave entirely too much of his energies to cases that were not worthy of the amount of patient and persevering effort he gave to them. He reached that pre-eminence on the bench that he did reach—for he did reach a degree of pre-eminence—by reason of his industry, his patience, his painstaking, his determination, if possible, to reach a just and fair and equitable determination of each case that might be presented to him. Let it be ever so little or ever so great, it had that painstaking care and attention. He was, I may say, pre-eminent as a chancellor, for the equity side of the law seemed to fit him as he seemed to fit it. And it was with unlimited patience that he heard us. Every judge knows that lawyers, even good ones, will tax the patience of a court; but during my seventeen years of practice before Judge Elliott I never saw him once show any degree of impatience which would indicate that he was irritated, or that dropped from him a remark that he would have any reason to regret or withdraw. In fact, I sometimes felt that in justice to himself, if not to the position he held, he should have exercised a little more arbitrary authority; but when I called his attention to that—I recall one occasion in particular—he said: "Every party in court has a right to a hearing by himself or counsel, and the duty of the court is to hear him by his counsel." And when I

came to think about it I found that it was I who was wrong, and it was Judge Elliott, as usual, who was right. In speaking of him I am speaking of him with that high degree of respect that I have always had for him. I was one of the committee in the preparation of the resolutions which Mr. Harris has spoken of.

The last act of Judge Elliott was about four weeks before his death, when, to the surprise of us all, when we were gathered in the court-room on the occasion of Judge Daniel E. Haines' death—who was for fifteen years on the bench of our county—Judge Elliott made his appearance in that court-room. It was much too great an effort, and yet when he came in, barely able to walk with a cane from the elevator into the court-room, there was not a man of the eighty odd of us in that room, that seemed to have as cheerful and as happy a disposition as Judge Elliott, notwithstanding that weakness. He seemed like a "walking skeleton." We spoke to him about it, and about the effort that it must be for him to get there. "Oh, no," he says, "on occasions like this it is our duty to be present and speak for our brethren, especially when the man was on the same bench with me for fifteen years." It was the last time that he was out of his house, and only three or four weeks prior to his death.

We will not miss Judge Elliott here; we will miss him there. You will recollect when he came here to meet us he was always companionable; he was always cheerful; he was always willing to do anything that needed to be done in order to further the purposes and intentions of this Association. And I believe that every member—for he commenced with the beginning of this Association and attended every one of its meetings from its beginning up to this year, except two, at one time being confined to a sick-bed and unable to leave his room, and at another in Europe endeavoring to recuperate his health—will miss him and will mourn his loss as deeply as we do. Even

when he lay in his sick-room, not more than a month or six weeks before his death, he said to me, familiarly, as he generally did: "R. D., I want to be able to go with you once more and meet the brethren at the Ohio State Bar Association."

The fourth district was called.

JUDGE PIKE: The fourth district has been very sadly afflicted during the present year. Toledo, more than any other city, has suffered during the present year from the loss of eminent and distinguished brethren. The first one who died was not a member of the Association, but was well known perhaps throughout the State—old Judge Emery D. Potter—who died at the age of ninety-two. I speak of him in connection of the death of so many others whom I shall have to mention as members of the Association. I am not prepared to give any memorials, but I will mention them. First is Judge John M. Lemmon, who became a member of the Association several years ago. I suppose some member of the Sandusky County bar will prepare a memorial, and I hope he will be authorized to have it printed with the proceedings when they are published. We have lost also since January 3d other members, residents of Toledo. One was Judge R. H. Cochran, probably known to many members of the bar, although it was only last year that he joined the Association. Perhaps my Brother Bunker will be able to say more as to the nature of his exalted services to his country, as well as his excellent qualifications as a man and a lawyer, than I am prepared to do. I shall ask the privilege that we furnish a memorial to be printed with the record. Another member who has died since January was Mr. A. W. Scott, a son of the late Judge Scott, of the Supreme Court, a partner of Judge Doyle, who also is intending to furnish a memorial to have it printed with our proceedings. The last was Mr. D. E. Thomas, who

has been for four or five years a member of this Association—a man of most excellent qualifications, an honorable and painstaking lawyer, a worthy citizen, and a Christian. We shall ask permission that a memorial of him be printed with the other proceedings. I would like to hear from my Brother Bunker.

I want to say, however, in connection with these proceedings—and it may not be out of place—that a year ago Mr. Frank Hurd became a member of the local association at Toledo, and of the American Bar Association, and that only his absence from the State prevented him then from becoming a member of this Association. This year, in the month of May, he was fearful that he might forget it, and handed me, which I have here in my possession, his application blank for membership in this Association; but we laid him at rest last Saturday. He died last Friday morning, if I remember rightly. Of course, we cannot print a memorial of him in the proceedings, as he was not a member, but it so happened that his application for membership was in my hnnds when he died.

COL. BUNKER, Toledo: As to Judge Cochran, he was perhaps better known among the members of the Grand Army, and in connection with his work in the National Union Society, and well known in the history of the Wheeling and Lake Erie Railway construction. He took an active part and leadership in the construction of the terminal bridge at Wheeling, West Virginia. He was an able lawyer, and had served a term upon the bench after the war. He came to Toledo with the intention of engaging actively in the practice of the law, but business changed his plans and directed his attention to other pursuits. He was, however, a most obliging gentleman, an able lawyer, a man with a fine judicial mind, a man whom it was a pleasure to know. His death, to those of us who knew him so well in Toledo, came as a

great shock. It was to us a bereavement and a loss of a very dear friend; and I trust that some one will prepare and present to the proper committee a suitable memorial, and that the same may be printed in the proceedings of this Association as they shall appear next year.

A. W. Scott was well known, perhaps, to nearly all the members of the bar here as an able lawyer, an active, hard-working man, who died after a very long and painful illness.

Daniel E. Thomas was a commercial lawyer. He came to Toledo in 1888, having practiced law in Michigan up to that time, from the time he was admitted to the bar. He took rank in Toledo among the leading lawyers. He was not only a good lawyer, but he was pre-eminently an able, safe and wise counsellor. He was a good business man; and to those in whose service he was employed, he gave most valuable service and most valuable assistance in their financial and business matters.

Suitable memorials were presented to the bar association of Toledo upon the death of the brethren that I have named. I especially ask, because of my long acquaintance and my personal, warm and friendly relations with Daniel E. Thomas, that permission may be given to present to the proper committee a written memorial upon the life and services as a lawyer, as a business man, as a gentleman, of Daniel E. Thomas.

The fifth district was called.

MR. SULLIVAN, Columbus: Since the last meeting of this Association, L. J. Critchfield, one of the founders of this Association, and a very active and earnest member of it up to the time of his illness, has departed this life. Leander J. Critchfield was a graduate of the Ohio Wesleyan University, of Delaware. I believe there is a memorial in the possession of the Franklin County bar touching the life and services of Mr. Critchfield. He has been the

Reporter of the Supreme Court for sixteen or seventeen years. He has always been on one of the committees of this Association, almost since its beginning sixteen years ago. I have reason to know that this Association is largely indebted to Mr. Critchfield for its success and its preservation. I have a very warm feeling in the matter, and a profound regret for the loss of Mr. Critchfield. He has been a personal friend since my admission to the bar. He was one of the committee appointed by the Supreme Court of Ohio, now more than twenty-five years ago, to examine me, and the class of which I was a member, for admission to the bar. Since that time the feeling of professional and social friendship has existed between Mr. Critchfield and myself, and was never broken until his death. He was the most genial companion that could be had, dignified and intelligent, as honest as any living human being. There was no man more honorable in our profession than Leander J. Critchfield. He was never known to violote its ethics, or to abuse trust or confidence. In a word, he was a gentleman among gentlemen. The companionship of L. J. Critchfield, when once had, can never be forgotten; his friendship, once had, could never be forgotten. He was a man of most estimable qualities, both socially and professionally, and I desire now to pay a brief tribute in this manner to his memory, not only to his memory as a lawyer and one of the founders of this organization, but as a social gentleman and friend; and I ask leave to have the memorial spoken of a moment ago presented to the Biographical Committee and inserted in the report of this meeting.

JUDGE HUNT, Cincinnati: I desire to present the name of Mr. John A. Slatterly, of the Cincinnati bar, who has passed away since our last meeting.

MR. ARNOLD: In the fifth district the name of J. H. Heitman, who died previous to the last meeting, by mistake appears in this list.

MR. BENNETT, Bucyrus: On behalf of the second subdivision of the tenth judicial district, I arise to speak of one who never held an office, who never violated a trust, who never was guilty of a breach of confidence; he had fewer vices and more friends than any man of his age I ever knew. I speak of the death of John Lucius Leonard, of Bucyrus, Ohio, a member of this Association. The only rational cause of his death is to say that he was irrational. He died not a natural death; and while reason had been robbed by disease, yet vice had not stolen his virtues. He hanged himself. He did it when reason was not paramount. I speak of him as one whom I loved. He was a man of wonderful mind. He read law under Judge West, of Bellefontaine, had been admitted to the bar, and for the last eight years had been a member of this Association. He was as gentle as a woman; his nature was kindly; he had no ambition for wealth, but all for his friends. I had the honor of preparing for him a memorial for our county bar association since his death, and I will ask the general consent of this Association that it may be included in its proceedings. I can say nothing further with regard to his character, except that it was an exalted one. He died not as the fool dieth; he died not as one devoid of hope. His wife, whom he fondly loved, was away from home, visiting at the time in Mt. Vernon. She telegraphed him to meet her at the train. He never received the telegram, for at that time he was dead. It became the duty of a few of us who were near to him to break the sad intelligence to her. I can only say—

> "Truth needs no color, with its color fix'd;
> Beauty no pencil Beauty's truth to lay,
> But best is best if never intermix'd."

We ask consent to print his memorial in the proceedings of this Association.

MR. ARNOLD: It was not an oversight in passing the fifth district to leave out the name of Allen G. Thurman, but it should appear in the call of districts. The memorial which Judge Nash will deliver to-morrow will be of such a nature that it will not be necessary to say anything here.

In this connection my attention has been called to that part of the Constitution prescribing the duty of the Committee on Legal Biography, which is that "the Committee on Legal Biography shall provide for the preservation among the archives of the Association of the lives and characters of deceased members of the Ohio bar, and procure and report to the next annual meeting a short biographical sketch of each member whose death shall have been reported at any annual meeting."

THE PRESIDENT: The Chair was on the point of suggesting to the brethren who have been asking that memorials should be printed, that the proper manner is to refer the matter to the Committee on Legal Biography, and they will attend to the printing of such memorials of deceased members. It is a part of their duty. I know it will give them pleasure to put in proper shape, and in their report of these proceedings, any memorial of any deceased brother that any member may desire.

MAJOR BRYAN, Akron: I desire to call attention to Judge W. S. Dilatush, of Urbana. I also desire to call attention to the death of an old member of the Association—a gentleman who was not a member at the time of his death, a distinguished lawyer, and once Attorney-General of the State of Ohio—Isaiah Pillars—who has died since last year. I think it is very important that this provision of the Constitution should be observed. Quite a number of the members of this Association have died since it has been formed, and no memorial has ever been prepared and printed in the proceedings of the so-

ciety. I certainly think it is the duty of the Association to take some notice of the death of any one of its members, however humble he may be.

COL. BUNKER: I wish to inquire as to the Hon. Frank H. Hurd, whose application to become a member was in the hands of the treasurer, whether the Association will allow to be presented to the Memorial Committee a memorial upon the life and services of Mr. Hurd.

It was moved, seconded, and carried that that be done.

MR. MCINTIRE, Mt. Vernon: With the public Mr. Hurd had few superiors in the State of Ohio as a lawyer. His heart and soul were in the practice of the law, and he extended at all times the right hand of fellowship to brother lawyers, both old and young. He was an honor to his profession; in politics he was a leader; as a member of his church he was consistent; he would have been an honorable member of this Association had he lived, and would have been present with us to-day in the transaction of our business. I trust that the Association will see proper to grant the printing of this memorial. In behalf of the friends and relatives of Mr. Hurd, whom I am authorized to represent, I want to express to Col. Bunker and this Association a sense of gratitude of this recognition of this remarkable member of the bar of Ohio. I do not care to say anything further, because it comes so near to me personally. I am not related to Frank Hurd himself, but I have been connected with the family for twenty-five years, and I mourn his death almost as that of a relative. In behalf of the family and his friends at Mt. Vernon, I desire to express their appreciation.

(Memorials on deceased members will be found in the Appendixes, as follows:

MR. MYKRANTZ: I move that the changes on the program for this afternoon, as suggested by the Executive Committee, be laid over until to-morrow morning.

Seconded and carried.

The Committee on Admissions and Elections presented the following report:

SUPPLEMENTAL REPORT OF THE COMMITTEE ON ADMISSIONS AND ELECTIONS.

To the Ohio State Bar Association:

GENTLEMEN—The Committee on Admissions and Elections submits this supplemental report, and recommend that the following named lawyers be elected as members:

L. Benton Tussing, Columbus, Ohio.
G. C. Kohler, Akron, Ohio.
R. M. Wanamaker, Akron, Ohio.
Charles Ammerman, Barberton, Ohio.
Frank E. Pomerene, Coshocton, Ohio.
W. T. Devor, Ashland, Ohio.
Edward Volrath, Bucyrus, Ohio.
Charles Gallinger, Bucyrus, Ohio.
Frank B. Carpenter, Cleveland, Ohio.
George Coyner, Delaware, Ohio.
George L. Garrett, Hillsboro, Ohio.

Oliver N. Sims, Hillsboro, Ohio.
Judge John J. Adams, Zanesville, Ohio.
Harry H. McMahon, Columbus, Ohio.
W. J. Weirick, Loudonville, Ohio.
Harry M. Daugherty, Washington C. H., Ohio.
Marcus Shoup, Xenia, Ohio.
Charles Aubert, Columbus, Ohio.

Respectfully submitted,

H. A. MYKRANTZ, *Chairman.*

The report was unanimously adopted, and the members declared to have been elected.

JUDGE HUNT: I am sure that every one present is deeply touched by the illness of our President, Mr. Hall. It will be a graceful tribute to his fidelity and zeal in behalf of the Association, and his long affection for us, to send to him this afternoon some message of good cheer. I move you that the officers of this Association be directed to convey to him the assurance of our solicitude and earnest wishes for his recovery.

Seconded and carried.

The following dispatch was sent:

PUT-IN-BAY, July 16, 1896.

To the Hon. John J. Hall, Akron, Ohio:

The State Bar Association, now in session, wish to assure you of the kindly and affectionate sympathy of all the brethren, and an earnest hope for a speedy restoration to health.

JOHN F. FOLLETT, *Vice-President.*

H. B. ARNOLD, *Sec'y.*

The Association adjourned to to-morrow morning at 10 o'clock.

SECOND DAY—*Morning Session.*

The Association convened at the hour to which it had adjourned, with Vice-President Follett in the chair.

THE PRESIDENT: The first exercise this morning is the completion of the program of yesterday, the address of Hon. E. B. Finley, on the subject, "What Constitutes a Good Lawyer?"

Gen. Finley then delivered his address.

THE PRESIDENT: The next business in order is the address of the Hon. George K. Nash, of Columbus, Ohio, upon "The Life and Services of Allen G. Thurman."

(For Judge Nash's address, see Appendix II.)

THE PRESIDENT: The next business in order is the report of the Special Committee on New Rooms for the Supreme Court and Law Library. Is that committee ready to report?

GEN. KEIFER: I was not present last year when the committees were made up, but have been advised that the Committee on Enlarging the Rooms for the Supreme Court was continued. If it be true, I have only to say that nothing has been done within the last year, or attempted, so far as I know. Since the committee was appointed, however, members of the committee went to the rooms occupied, or rather room occupied, by the Judges of the Supreme Court. We all felt humiliated when we were there, because our State had not provided a suitable place for one Judge, not to say five or six. There were a number of suggestions made in consultation with the members of the Supreme Court, but they were all impracticable, apparently. The committee was before a committee of the House of Representatives, and the subject was discussed, and it was hoped that some little relief would be afforded; but that proved a failure until later on, when there seems to be some prospect that the

State House may be enlarged, and ultimately the Judges of the Supreme Court allowed something like adequate room in which to do their work. It is not necessary to say to the members of the bar who have been at Columbus, that the provision made within my lifetime for the Supreme Court, in one room, poorly ventilated in every respect, not well lighted, and in every regard one that would tend to break a man down, if he had to practice law as my friend Gen. Finley says lawyers have to do in the country towns. But we have nothing further, Mr. President, to report.

If you will permit me I will take the risk of saying one thing by way of supplement in relation to Senator Thurman. He was a man like all other great men; and I only want to mention an incident, as it will interest some of the lawyers. In that great body of the Senate of the United States there are some very great men, who have been very much celebrated for their learning and their greatness. The incident I want to call your attention to was when they were adopting in the Senate a bill for the purpose of distributing the remainder—several millions of dollars—of the Geneva award. Perhaps you, Mr. President, may be familiar with that period. Senator Thurman took a view of that subject that most, or at least the disinterested, lawyers in the Senate and House of Representatives did take. There were a great number of people that were very anxious to have the distribution go to certain losers of the vessels and property on the sea who had already been reimbursed fully for all their losses through the marine fire insurance companies. On the other hand, there were a number of lawyers, like Senator Thurman, in the Senate, who believed that the marine fire insurance companies that had paid the losses ought to be subrogated to the direct losers, and have a portion of the money that was being distributed. Senator Blaine, making a speech succeeding a speech made by

Senator Dawes, of Massachusetts, made a very eloquent appeal for the direct losers, who had already been paid. Senator Thurman was very much agitated over what he thought was a double payment, and a great injustice and great inequity, and he watched with great interest the course of the debate. He happened to be looking on when Senator Blaine, in the close of his speech, not being a lawyer, said: "Gentlemen of the Senate, it is no longer necessary for me to discuss this doctrine of subrogation in equity, because on yesterday Senator Dawes, of Massachusetts, conclusively showed that if there ever was such a doctrine in equity it has been abolished." Thereupon, Senator Thurman, in the fullness of his indignation, felt the hot blood rushing to his head, and feeling that that was a time to strike, raised, and standing at his seat, still flushed up, attempted to speak, but the blood overcame him, and he fell to the floor in a fit. His indignation had overoome him, and he had to be borne to a cloak-room. We feared he might die, but he recovered afterwards. But that was produced simply by what Blaine had said about the abrogation of the doctrine of subrogation in equity.

GOV. JONES: As another member of the committee upon new rooms for the Supreme Court, with the indulgence of Gen. Keifer, I want to make an additional statement from that committee. I want to say, Mr. Chairman, that without any doubt the work of that committee has been accomplished, and accomplished pretty well, too. Last winter, through the aid of Judge Shauck and Senator Herron, and my friend Senator Laning, we were enabled to get from the recent Legislature, by way of appropriation, $400,000, to be expended in the next two years for the enlargement and the improvement of the State House. The real purpose of that $400,000 was to take care of the Supreme Court. It passed both branches of the Legisla-

ture, and under it was created a commission, consisting of the Governor, one Judge of the Supreme Court, the Speaker of the House of Representatives, the Adjutant-General, and the Lieutenant-Governor, for the purpose of going forward to put into execution the law that was passed by that Legislature. I want to say to you that without any doubt that commission is going forward to spend that money and arrange for the Supreme Court. There isn't a particle of doubt about it. Under that statute it became the duty of that commission to ask for plans for the improvement of the State House, from at least ten of the best architects we could find in the State of Ohio. The act did not limit the architects to the State of Ohio, but the commission did. They believed in protection to home industries. They simply applied it to the architects in the State of Ohio. The commission met, and organized by the election of Gov. Bushnell as chairman of the commission, and the Adjutant-General as the secretary of the commission, and are going forward as rapidly as may be to accomplish that purpose. The law required that the reports of the architects should be received on or before the 1st of October next. The commission have therefore not selected ten, as they were limited to in the act, but have named some twenty architects in different parts of the State, and have asked from them plans and specifications and aid with regard to this improvement. The work is now being accomplished by the architects in the different parts of Ohio. Perhaps it would not be proper for me to say what the commission will do, but I think I know what they will do, and I have not much fear of guessing what they will do, to-wit: the first thing they will do will be to build an extension upon the south side of the State House building for the absolute purpose of providing for the Supreme Court of Ohio, the Law Library, the Attorney-General, and to dispose of them in a first-class manner. Then they will take care

of the balance as they go along, under the orders of the General Assembly. But this $400,000 is in our hands, and it is going to be expended for that purpose, Mr. Chairman, without any doubt.

MR. MYKRANTZ: The Committee on Admissions and Elections desire to submit an additional report:

SECOND SUPPLEMENTAL REPORT OF THE COMMITTEE ON ADMISSIONS AND ELECTIONS.

To the Ohio State Bar Association:

GENTLEMEN—The Committee on Admissions and Elections submits the following second supplemental report:

We recommend the election of the following named lawyers as members of this Association, as follows:

Edward L. Hyneman, Columbus.
Frank C. Hubbard, Columbus.
G. E. Herrick, Cleveland.
J. W. Mooney, Columbus.
H. Van Campen, Toledo.

H. A. MYKRANTZ, *Chairman.*

The report was unanimously adopted.

GOV. JONES: I did an injustice to a member of this Association, and I desire to correct it now before it goes any further. I spoke of certain senators who aided in the passage of this bill. I knew, of course, what was done and what was going on in the Senate, but our Brother McBride was just as active and indeed did as much to carry it through the large body, the House, as any other, dozen that could be named, and is entitled to lots of credit for what he did.

A recess of ten minutes was taken for the purpose of selecting members of standing committees and vice-presidents, after which the Association was called to order, and the committeemen and vice-presidents reported to the Association. Their names will be found elsewhere in the lists of vice-presidents and committees for the ensuing year. There being no representatives present from the Seventh Judicial District, the committeemen and vice-president from that district were ordered to be continued the same as the present year.

The Committee on Nomination of Officers was reported as follows:

COMMITTEE ON NOMINATION OF OFFICERS.

1st District—John W. Herron, Cincinnati.
2d " —John A. Shauck, Dayton.
3d " —S. S. Wheeler, Lima.
4th " —Wm. E. Talcott, Cleveland.
5th " —M. R. Patterson, Columbus.
6th " —C. E. McBride, Mansfield.
7th " —C. H. Grosvenor, Athens.
8th " —Sherman M. Granger, Zanesville.
9th " —M. A. Norris, Youngstown.
10th " —S. W. Bennett, Bucyrus.

Mr. Hathaway, from the Committee on Grievances, made the following report:

To the Ohio State Bar Association:

The Standing Committee on Grievances of this Association has had its attention called to complaints from reputable sources, of a practice largely prevalent in different parts of the State, especially in the larger cities and towns, of members of the bar advertising themselves as specialists in the prosecution of damage actions for personal injury and death, by corporations and individ-

uals, guaranteeing to conduct such litigation without expense for a contingent fee, seeking such employment by personal solicitation in many cases, and by advertisements in the papers and by agents employed for that purpose. In the first instance, thereby fostering and encouraging a class of litigation without real merit, and void of any beneficial results to parties alleged to be injured.

In many instances, your committee are satisfied that this practice in the larger cities of the State has progressed to that extent that very many actions have been, and are being, commenced in our courts, without legal merit or foundation, for the sole purpose of extortion and for the purpose of compelling the payment of attorney fees, and claims to such attorneys, rather than litigate against unfounded claims, and to avoid the vexation, annoyance and expense of the same.

Your committee are quite well satisfied that this evil has become prevalent to an alarming extent, in some parts of the State, and the courts impeded by time taken up in defending against unfounded actions of this kind and character, to the detriment and delay of the legitimate business for which courts are constituted. And your committee unqualifiedly condemn and denounce as unprofessional, unlawyer-like, dishonorable and forbidden by law, the above practice complained of and made known to it.

Your committee are of the opinion that the present laws of the State bearing upon the practice of attorneys, and the power of the courts of the State to reach and punish attorneys guilty of violation of the laws and practice, governing their conduct in the several courts, are ample and sufficient to reach many, if not *all* the evils complained of aforesaid; and your committee would therefore recommend that the evils complained of should be remedied by proceedings by the Local Bar Associa-

tions, and investigation by the courts in the several counties, for violation of the law governing the practice of attorneys in such courts, rather than by further legislation upon the subject; and the committee ask to be discharged from further consideration of the subject.

Respectfully submitted,

EDWARDS RITCHIE, *Chairman.*
C. D. WIGHTMAN,
I. N. HATHAWAY,
M. MAY,
Committee on Grievances.

MR. FITCH: I move that the report be accepted and adopted, together with the recommendations therein and the request made.

Seconded, and carried.

MR. BATEMAN, Cincinnati: I was going to suggest that the report suggested that the bar associations in the different localities should be requested to take the proper steps to prosecute and bring under the discipline of the court, attorneys pursuing the practices complained of. It seems to me that in order to carry out this practically, the matter should be presented to the bar associations, and either the Secretary of this Association, or the committee itself, or some person, be appointed for the purpose of calling the attention of the several bar associations to the practice complained of. Otherwise, the report will be approved, carried into our reports, and there it will rest. I therefore move that the Secretary of the Association be requested to forward copies of this report to the bar associations of the cities, and that it be published in the *Legal News* and the *Bulletin.*

Seconded, and carried.

THE PRESIDENT: We have now reached the order of business of discussion of the reports of committees.

MR. TALCOTT, Cleveland: According to my recollection, the Committee on Legal Education, or at least one member of it, stated to the Association that the committee would have some observations or suggestions to present to the Association before entering upon the discussion. I would like to ask if that committee has now any report to make or suggestions to offer.

MR. BATEMAN: I think the remark which I made was not sufficiently explicit. I intended to make the statement that I had prepared some suggestions in the form of amendments to the existing legislation concerning corporations that I had submitted to the committee, but for want of time it was impossible for them to examine them and form any opinion concerning them so as to incorporate them into their report, and that I should at the proper time present the matter to the Association; that if the Association saw proper, the matter could be referred to the committee for their consideration. That was the object I had in view.

MR. TALCOTT: The remarks I had in mind were made by Bro. Patterson, of Columbus.

MR. PATTERSON, Columbus: Mr. President, and Gentlemen of the Association—I had prepared a short paper which it occurred to me I should read as a report of the Committee on Legal Education, but the course of business here yesterday didn't seem to warrant one member of that committee assuming to make any suggestions, even though they were on his personal account. I shall not now ask your time to read any paper, although it is short, but I desire—(Voices: "Read, read.") I may get along just as rapidly by going through the paper, as I have it written down here, and inasmuch as it seems to be your wish, I shall read the paper.

Mr. President:

The Committee on Legal Education, as a committee, I presume, has no report to make. There has been no meeting of that committee within the last year, to my knowledge. I desire on my own account, however, to suggest some changes, which, if made, either in the law, or the rules of the Supreme Court, on the subject, would in my judgment be an improvement on the present system, by which persons are admitted to membership of the bar. It must be conceded by all that the machinery employed for testing the qualification of applicants for the high honor of being enrolled as members of the legal profession, should be as perfect as human judgment and experience can make it. The place to begin the process of making the lawyer equal to the higher demands, which the constantly increasing diversity of human enterprise are making upon him, is at the door of admission to the profession. Justice Brewer, in his paper on "The Great Need of the Profession," read before the American Bar Association, at Detroit last year, said: "The door of admission to the bar must swing on reluctant hinges, and only he be permitted to pass through who has by continued and special study fitted himself for the work of a safe counsellor." I apprehend, therefore, that no subject can be of greater moment to this body, composed of representative lawyers of the State, met, as the constitution of the Association declares, "to encourage thorough liberal legal education," than that of removing defects, if any exist, in the system by which the qualification of applicants is now tested.

Considerable progress in the direction of a higher and more uniform standard of legal education for admission to the bar has been made in this State, due in a great measure, as I understand it, to the efforts of this Association. The transfer of jurisdiction in this respect from the intermediate courts to the Supreme Court, was

the substitution of what was intended to be a practically uniform standard for all, for the eighty-eight different standards under the old system—varying in quality from a few questions and a treat, to a fairly decent examination. (I might add that the questions usually diminished in importance and number, in an exact ratio with the promising character of the liberality of the treat.).

Another step in the direction of improvement in this respect, was the law enacted in '94, which requires a preparatory period of three, instead of two years; and this brings me to one of the complaints I have to make about the present system.

The evidence required by the law that the applicant for examination has regularly and attentively studied law for a period of three years, is the certificate of some attorney-at-law, to such effect, presented to the court when the applicant presents himself for examination. It is within the knowledge of many that persons have been admitted to the bar, under the present system, whose studentship was not known to their near neighbors and friends, or only known to the extent of a desultory reading for a few months. Yet, some lawyer must have made the requisite statutory certificate in such case. It is idle to say that lawyers cannot be found who will make such certificates without regard to the facts. It is not my purpose to turn a pessimistic light on the profession. I leave that to members of a more commanding position. It will serve my purpose to borrow again from Justice Brewer's paper, in which he, speaking of the growing multitude that had crowded in, who are not fit to be lawyers, and who disgrace the profession after they are in it, said in this connection: "It would be a blessing to the profession and to the community, as well, if some Noachian deluge would engulf half of those who have a license to practice." Yet, any attorney at law may make the certificate required by the statute. For aught

that the Supreme Court knows, such a certificate, in the community where the lawyer lives, would be but an invitation to those who know him, to investigate the truth of the matters to the existence of which he certified. But it is not the absolutely debased lawyer from whom the most danger is to be expected. Lawyers who retain some standing in the profession, have acquired the accommodating habit of putting themselves in a state of oblivion, as to facts about which they may certify or make affidavit. Many lawyers, too, are careless and possessed of loose notions as to the importance of a student's certificate. Again, a perfectly honest lawyer may be mistaken as to a matter he has given little or no attention.

It is eminently desirable that some change be made which will not leave this important matter to the honesty of a dishonest lawyer, to the lawyer whose memory can be hypnotized, or to the carelessness or indifference of any other kind of lawyers.

The remedy I propose, to make the three year law effective, is to require by law, or by a rule of the Supreme Court, if practicable, that the attorney-at-law under whom a student enters himself for the study of the law, shall file in the office of the Clerk of the Supreme Court a certificate stating the name and age of, and time when, the student commenced to read law; and which rule or law shall make the period of three years to commence at the date of the filing of such certificate. Such a law or rule would make a false certificate as to time impossible, and would furnish a starting point from which the career of the student could be ascertained.

In order to bring into operation such requirement, and not do injustice to such as have already started upon a course of preparation for the bar, a rule should be promulgated requiring all attorneys under whom such students are studying to file such certificate within a time to be stated.

As a uniform standard, as near as such a thing can be attained, is just as important as a high standard of qualification, I think the practice of designating special committees to examine the students located in different parts of the State is to be condemned. Its inevitable tendency is to destroy uniformity of standard, and may be unfair to those who cannot avail themselves of the benefit of a college course, and to those who attend colleges in other States. By such a course, the students of one college may have a very much harder examination to pass than the students of another. I have been utterly unable to perceive any reason whatever, that commends itself, for providing a different commission for college students. It seems to me entirely just that college students should go to Columbus, as any other students do, and be examined, as other students are, by the regular committee. The Supreme Court should be asked to decline to appoint these special committees, as it may do, and the law which gives the court this discretion cannot, in my judgment, be too quickly repealed.

I propose, furthermore, as a general improvement of the machinery for testing the qualification of applicants for admission to the bar, something more permanent than a commission, the entire composition of which may be changed every year. The weakness of the present system not only consists in the frequent changes which may be and are made of the entire board, thus losing the benefit of the experience of its predecessor, but also in an inferior character of work, which the system in a manner invites. It is no easy task to develop from a brief number of questions the student's knowledge of some eighteen or twenty different subjects. It not only requires an intimate familiarity with the subjects, but it requires skill to so frame the question that it will not be misleading or suggestive, and will present the inquiry intended in the fewest and best chosen words. The grading of the pa-

pers of the applicant carefully and conscientiously is no holiday affair. This work would be infinitely better done, and the whole system would be greatly improved, if modeled more closely after the New York rules, a copy of which I attach hereto. The essential features of the New York system, which, in my judgment, are an improvement over ours, are a permanent board of law examiners, the members of which are paid salaries commensurate with the work required; an examination fee of $15 which raises a fund sufficient to pay salaries and other expenses of the commission; requiring proof of studentship by certificate filed at the time the studentship commences; and by regulating the membership of the board so that a majority will all the time have had experience.

The following are the New York rules:

Rules for the Admission of Attorneys and Counsellors at Law.

I.

No person shall be admitted to practice as an attorney or counsellor in any court of record in this State, without a regular admission to the bar and license to practice, granted by the Supreme Court at a general term thereof.

II.

Any person who has been admitted to practice, and has practiced three years as an attorney and counsellor in the highest court of law in another state, and any person who has thus practiced in another country, or who, being an American citizen and domiciled in a foreign country, has received such diploma or degree therein as would have entitled him, if a citizen of such foreign country, to practice law in its courts, may, in the discretion of the Supreme Court at a general term thereof, be admitted and licensed without examination. But he must possess the other qualifications required by these rules, and must

produce a letter of recommendation from one of the judges of the highest court of law of such other state or country, or furnish other satisfactory evidence of character and qualifications.

III.

All other persons may be admitted and licensed upon producing and filing with the court the certificate of the State Board of Law Examiners that the applicant has satisfactorily passed the examination prescribed by these rules and has complied with their provisions; and upon producing and filing with the court evidence that such applicant is a person of good moral character, which may be shown by the certificate of the attorney with whom he has passed his clerkship, or by some attorney in the town or city where he resides; but such certificate shall not be conclusive, and the court may make further examination and inquiry.

IV.

To entitle an applicant to an examination as an attorney and counsellor he must prove to the satisfaction of the State Board of Law Examiners:

First—That he is a citizen of the United States, twenty-one years of age, and a resident of the State, and that he has not been examined for admission to practice and been refused admission and license within three months immediately preceding, which proof must be made by his own affidavit.

Second—That he has studied law in the manner and according to the conditions hereinafter prescribed, for a period of three years, except that if the applicant is a graduate of any college or university, his period of study may be two years instead of three; and except also that persons who have been admitted as attorneys in the highest court of original jurisdiction of another state or country, and have remained therein as practicing attorneys for

at least one year, may be admitted to such examination after a period of law study of one year within this State.

V.

Applicants for examination shall be deemed to have studied law, within the meaning of these rules, only when they have complied with the following terms and conditions, viz.:

1. The provisions for requisite periods of study must be fulfilled by serving a regular clerkship in the office of a practicing attorney of the Supreme Court in this State, after the age of eighteen years; or, after such age, by attending an incorporated law school, or a law school connected with an incorporated college or university having a law department organized with competent instructors and professors, in which instruction is regularly given; or, after such age, by pursuing such course of study, in part by attendance at such law school, and in part by serving such clerkship.

2. If the applicant be a graduate of a college or university he must have pursued the prescribed course of study after his graduation; and if he be a person admitted to the bar of another state or country he must have pursued his prescribed period of study after having remained an attorney in such other state or country for the period of one year.

3. Applicants who are not graduates or members of the bar as above prescribed, shall, before entering upon the clerkship or attendance at a law school herein prescribed, or within one year thereafter, have passed an examination, conducted under the authority and in accordance with the ordinances and rules of the University of the State of New York, in English composition, advanced English, first-year Latin, arithmetic, algebra, geometry, United States and English History, civics and economics, or in their substantial equivalents, as defined by the rules

of the University, and shall have filed a certificate of such fact, signed by the Secretary of the University, with the Clerk of the Court of Appeals, whose duty it shall be to return to the person named therein a certified copy of the same, showing the date of such filing. The regents may accept as the equivalent of and substitute for the examination in this rule prescribed either, first, a certificate, properly authenticated, of having successfully completed a full year's course of study in any college or university; second, a certificate, properly authenticated, of having satisfactorily completed a three years' course of study in any institution registered by the regents as maintaining a satisfactory academic standard; or, third, a regents' diploma.

Attendance on a law school during a school year of not less than eight months in any year shall be deemed a year's attendance under this rule, and in computing the period of clerkship a vacation actually taken, not exceeding two months in each year, shall be allowed as part of such year.

It shall be the duty of attorneys, with whom a clerkship shall be commenced, to file a certificate of the same in the office of the Clerk of the Court of Appeals, which certificate shall in each case state the date of the beginning of the period of clerkship, but which shall be deemed to commence at the time of such filing, and shall be computed by the calendar year. The same period of time shall not be duplicated for different purposes, except that a student, attending a law school as herein provided, and who, during the vacations of such school, not exceeding three months in any one year, shall pursue his studies in the office of a practicing attorney, shall be allowed to count the time so occupied during such vacation or vacations as part of the clerkship in the law office specified in these rules.

VI.

The State Board of Law Examiners, before admitting an applicant to an examination, shall require proof that the preliminary conditions prescribed by these rules have been fulfilled; which proof shall be made as follows, viz.:

1. That the applicant is a college graduate by the production of his diploma or certificate of graduation.

2. That he has been admitted to the bar of another state or country, by the production of his license or certificate executed by the proper authorities.

3. That he has served a clerkship, by producing and filing with the Board a certified copy of the attorney's certificate as filed in the office of the Clerk of the Court of Appeals, and producing and filing a further certificate of the attorney showing the continuance and end of such period of clerkship, and that not more than two months' vacation was taken in any one year.

4. The time of study allowed in a law school must be proved by the certificate of the teacher or president of the faculty under whose instructions the person has studied, in addition to the affidavit of the applicant; which proof must be satisfactory to the Board of Examiners.

5. That the applicant has passed the regents' examination, or its equivalent, must be proved by the production of a certified copy of the regents' certificate filed in the office of the Clerk of the Court of Appeals, as hereinbefore provided.

6. When it satisfactorily appears that any diploma or certificate required to be produced has been lost or destroyed without the fault of the applicant, or has been unjustly refused or withheld, or by the death or absence of the person or officer who should have made it cannot be obtained, the Board of Law Examiners may accept such other proof of the requisite facts as they shall deem sufficient.

7. A law student whose clerkship or attendance at a law school has already begun, as shown by the record of the Court of Appeals, or of any incorporated law school, or law school established in connection with any college or university, may, at his option, file or produce, instead of the certificates required by these rules, those required by the rules of the Court of Appeals, adopted October 28, 1892.

VII.

When the filing of a certificate, as required by these rules, has been omitted by excusable mistake, or without fault, the court may order such filing as of the proper date. All certificates heretofore issued to law students by the Board of Regents, and founded upon equivalents instead of an actual examination, are validated and made effectual, and may be accepted as sufficient by the Board of Law Examiners.

VIII.

The State Board of Law Examiners shall be paid, as compensation, each the sum of two thousand dollars per year, and an annual sum, not exceeding fifteen hundred dollars per year, shall be allowed for necessary disbursements of the board, and every applicant for examination shall pay to the examiners a fee of fifteen dollars, which shall be applied upon the compensation and allowance above provided, and any surplus thereafter remaining they shall pay into the treasury of the State; provided, however, that such compensation and allowance for any one year shall not exceed the aggregate of fees received for such year. The examinations held by such State Board of Examiners may be conducted by oral or written questions and answers, or partly oral and partly written, but shall be as nearly uniform in the knowledge and capacity which they shall require, as is reasonably possible.

An applicant who has failed to pass one examination cannot again be examined until at least three months after such failure.

IX.

The State Board of Law Examiners shall hold at least one examination in each judicial department at the city or village in which the General Terms are held, between the twentieth day of June and the twentieth day of July in each year, and one examination in each department at the places above named during the month of January in each year. They may appoint other times and places for additional examinations, and may hold some or all of such additional examinations concurrently with the regular or annual examinations of any law school in this State, and any applicant entitled to be examined may be so examined, and entitled to be admitted to the bar may be so admitted, in any department, whether a resident therein or not.

These rules shall take effect on January 1, 1895.

The only purpose I had in preparing this short paper was to get a submission of it to the proper committee of this Association. Doubtless there are many other changes that could be made which would be an improvement upon the present system. The rules that are now in vogue are in some of the Ohio Reports—in the early forties, I think. I believe it is a proper matter for the Committee on Judicial Reform to take up and present to the Supreme Court, and I should like to have the paper referred to that committee.

GOV. JONES: I believe that the Association will approve every word of Mr. Patterson's paper. I therefore move that it be adopted as the sentiments of this Association; and, second, that it be printed in our proceedings, and that Col. Patterson be appointed a special

committee of one to present this matter to the Supreme Court, and ask them to carry out the sentiments of that paper.

Seconded, and carried unanimously.

The Association took a recess to 2:30 p. m.

SECOND DAY—*Afternoon Session.*

THE PRESIDENT: Ladies and Gentlemen of the Bar Association—It is with very great pleasure that I announce the next order of business, which is to listen to an address from one of Virginia's most distinguished statesmen and lawyers, Hon. John Randolph Tucker, LL.D., upon the subject, "The Federal Constitution: the Best Product of Political Science for the Security of Freedom for Man;" and I know of no man who can handle this subject better than he. I now have the pleasure of introducing him to you.

MR. TUCKER: Mr. President and Gentlemen of the Bar Association—I trust I will be excused for prefacing what I have to say upon the subject I propose to discuss, by thanking you collectively and individually for the reception that you have given me here to-day. An old time Virginian is glad that the sons of Old Virginia's daughter open their hearts and hands to receive me.

(Mr. Tucker then read his paper, for which see Appendix No. III.)

A vote of thanks was passed to Mr. Tucker for his paper, and on motion of Mr. Bateman, a recess of five minutes was taken for the purpose of giving the members of the Association an opportunity to meet Mr. Tucker.

THE PRESIDENT: I have handed me a telegram which I desire to read:

AKRON, O., July 16, 1896.

John F. Follett, Hotel Victory:

Accept my most sincere thanks for kind expression of sympathy from my most beloved Association.

JOHN J. HALL.

The Committee on Nomination of Officers presented the following report:

The Committee on Nomination of Officers of the Association for the ensuing year, would recommend the election of the following:

For President of the Association, Hon. George K. Nash, of Columbus.

For Secretary, Harry B. Arnold, Esq., of Columbus.

For Treasurer, Hon. L. H. Pike, of Toledo.

Respectfully submitted,

JOHN W. HERRON,
Chairman of Committee.

The report was unanimously adopted.

JUDGE MARVIN: I move you that the address of James P. Wilson, Esq., of Youngstown, be postponed until to-morrow morning, it now being nearly five o'clock; and as part of this motion, that when this meeting adjourn this afternoon, it adjourn to meet at half-past nine instead of ten, that the address may be delivered at that time.

Seconded and carried.

Adjourned.

THIRD DAY—*Morning Session.*

The Association convened at the hour to which it had adjourned, Vice-President Follett in the chair.

MR. MYKRANTZ: The Committee on Admissions desire to submit the following report:

We recommend the reinstatement of T. I. Gilmer, of Warren, Ohio.

H. A. MYKRANTZ, *Chairman.*

The report was accepted and adopted, and Mr. Gilmer was reinstated to membership.

A vote of thanks was extended to Robert Clarke & Co., the Hon. J. F. Laning, and the Hon. Carl Beckham, for the donation of copies of the Revised Statutes, and the Secretary was directed to notify them of its adoption.

The President appointed the following gentlemen delegates to the American Bar Association: Hon. Henry C. Ranney, Cleveland; Hon. Gilbert D. Munson, Zanesville; and Hon. Gustavus H. Wald, Cincinnati.

THE PRESIDENT: The first order this morning is an address from Mr. James P. Wilson, of Youngstown, on the subject, "The Choice of the Forum."

MR. WILSON: First, I desire to express my appreciation of your considerate action yesterday in postponing the hearing of my paper to this morning. After listening to the words of wisdom that fell from the lips of that distinguished jurist and cultured scholar from Virginia, I felt a sense of unworthiness to follow in his wake so closely on the program, and was glad of the respite you granted me by at least a night's interval. I think I express the sentiments of this meeting, when I say that it is seldom the fortune of an assembled body of lawyers, to listen to words which are so fraught with deep meaning to the lawyer, so full of inspiring patriotism, and pregnant with so serious and noble thought.

I have a paper on a subject which I hope will be of interest to those of us practicing or holding court in the border counties of our State, and perhaps not without

general interest also to those of us in the interior. I have entitled it, "The Choice of the Forum."

(For Mr. Wilson's paper see Appendix No. IV.)

THE PRESIDENT: The next is the discussion of reports.

MR. FITCH: I desire to have the report of the Committee on Judicial Administration and Legal Reform considered at the present time. It does not seem to me to be necessary to have it all read, if the Association desires to have it adopted as a whole; if by sections, of course each section would have to be read.

On motion of Mr. Talcott, the report was taken up *seriatim*, and the chairman of the committee was requested to either read or state each proposition.

MR. FITCH: As I read the report on Tuesday there were some thirteen matters referred to this committee, and upon each they took action. I will now read one of the suggestions. The first matter was the question of the salaries of officers, and that county commissioners be included. We ask upon that proposition that we be excused from further consideration of that subject, except in regard to the fees of probate judges, which we consider within the jurisdiction of this Association, and concerning which we are of opinion the committee should be continued; and in connection with that matter, that the probate judges should be attorneys. Those were the two recommendations upon this first proposition.

MR. WHEELER: Do I understand the chairman of the committee to say, that the committee now recommends that the Ohio State Bar Association drop the subject of compensation of county officers under the fee system, and allow it without any protest to remain that way?

MR. FITCH: We do, for the reason stated in the report, except the probate judge, that being a judicial office.

JUDGE PRATT, Toledo: How about clerk?

MR. FITCH: Our committee base their conclusion mainly upon the ground that the Legislature seems to be fully imbued with that idea, and they already have before them some four or five bills upon that exact line; and when we met at Columbus, we found that condition of affairs existing, and we did not think it was necessary for us to prepare a bill or to take any further action upon it, but to leave it in the hands of the General Assembly.

MR. WHEELER: It was well stated by our worthy President, in his address, that many county clerks receive twice as much compensation as common pleas judges, and much more compensation than our circuit and supreme judges. I, for one, am not willing to let that remain in that way. I, therefore, move you that it is the sense of the Association that the Committee on Judicial Administration and Legal Reform is to continue to agitate the question of abolishing compensation to public officers by fees.

Seconded; carried.

The second, third, fourth, fifth, sixth, and seventh recommendations of the committee were agreed to without discussion.

MR. FITCH: The next question is in reference to the increase of the salaries of the judges of the Supreme Court. Perhaps I should say in that connection that this bill was introduced as requested last year. The Senate cut it down to $5,000 and passed it, but the House refused to take action on that. We do think it ought to be re-presented.

JUDGE STEWART: I move to amend the report so as to make it $8,000, and in that condition to remain in the hands of the committee. I think $8,000 is little enough to pay our supreme judges.

JUDGE MARVIN: A salary of $8,000 wouldn't be extravagant, but we can't get it. But one of the crying evils about salaries is the salaries of the judges of the Court of Common Pleas. I agree that the salaries of the judges of the Supreme Court are inadequate, but it is a disgrace that we don't claim more, when we are asking men all over the State to sit as Common Pleas judges and serve at $2,500. We ought to go to the Legislature and ask for more. We know we do get good men to serve at $2,500, but the pay is not sufficient. I move that this be so amended, that the committee shall be instructed to ask for legislation to increase the pay of Common Pleas judges to $2,500.

MR. FITCH: I want to answer Judge Marvin. I think it will be a mistake to attempt the whole thing at one time. It may be picked up item by item, by degrees; but I am in favor of the amendment of Judge Stewart, for this reason: if we are to judge future Legislatures by the past, the more we ask for the more we will get: they cut it anyhow. When we asked for $6,000, they made it $5,000. If we ask for $8,000, they will possibly make it $6,000. I hope the amendment of Judge Stewart will prevail.

The amendment of Judge Stewart was adopted, and that of Judge Marvin was lost by a vote of 31 to 3. The report as amended was then adopted.

All of the remaining recommendations of the committee in its report were then adopted, without debate.

THE PRESIDENT: Judge Hutchins is a member of the Committee on Legal Biography. If that committee

has any further report or statement to make we will hear it.

JUDGE HUTCHINS: I am a member of the Committee on Legal Biography, and I desire that fact to be known; but on Wednesday, at the proper time for reports from that committee, I did not feel that I could come here and state to this Association the unreasonable tenacity with which the lawyers from my district hold onto their lives, instead of voluntarily offering them upon the altar of legal biography: I was compelled to report nothing to report. Yet such is mainly fact. One would suppose, Mr. Chairman, that a body of men as intelligent and as conscientious as lawyers are, would be aware of the fact that it is the prerogative, as well as the duty, of a committee on legal biography, to be biographical, and sufficiently observant of the fact and willing to furnish the material for such biography—the subject. How can there be a biography without a subject? It would seem, also, that the lawyers from my district, having appointed a member of that committee, were in duty bound to furnish at least one subject for that committee to operate upon. Of what use is a committee on legal biography, if no one will die? Besides, Mr. Chairman, it is not fair to the committee. Think what a splendid opportunity I would have had, before such a body as this, to distinguish myself with the exit of legal luminaries whose legal luminosity would never have been known, but for such a biography. Think, too, of the professional and personal renown which the subject would gain in a few brief minutes' time, which a long life of patient endeavor has so far failed to establish! Think of the many hitherto unknown and unsuspected virtues of the lamented deceased! Now for the first time brought to light by the skillful limning of the faithful biographer, and made so conspicuous that his best friends only wonder that they

never had discovered them before! But, instead of taking heed to these considerations, and performing the plain duty, different lawyers of my district, as my friend Gov. Jones, Judge Johnson, Judge Gilmer, Judge Halliday, and Gen. Sanderson, Senator Sullivan, Mr. Wilson, who addressed you, Mr. Gilmer, and others, who might be now all giving their attention to an eulogy upon hitherto unsuspected and unknown virtues, come here *in propera persona*, and thus deprive your committee of an opportunity to distinguish himself either as an orator or an ass, and deprive themselves of the fame and the glory which, if it ever existed, will probably be posthumous and biographic. For instance, my friend Gov. Jones, with the body of a sylph, will not sacrifice himself even in the interest of legal biography. But suppose he had seen proper to quietly and in order shuffle off this mortal coil, think what could be done with such a subject. I would—

Take him up tenderly,
Handle with care;
Fashioned so slenderly,
Young, and so fair.

But no, he will persist in coming here in person, year after year, to the meetings of this Association, and with the same sylph-like form, growing each year feebler and more sylph-like, the same low, dulcet voice and soft, rippling laughter; and Committees on Legal Biography must wait! Under these circumstances, Mr. Chairman, your committee is regretfully compelled to report, no biographies. And we will wait, Micawber-like, "for something to turn up," to be like a poorly-loaded musket, discharged without report.

GOV. JONES: In defense of the member of the Committee on Biography from the Ninth Judicial District, I want to say that as long as I can have as good a time as I have had this year, and as I have had a great many years back in attending the State Bar Association, I

don't propose to make myself a subject for that committee. I propose to be present, not in spirit, but in body, at each annual reunion of the members of the bar of Ohio. It seems to me each year that they grow a little better than they were the year before. I believe that in the seventeen meetings of this Association, I have been only so unfortunate as to miss one. I hope that I may never be compelled to miss another. It seems to me that this meeting has been one, though not the largest, of the best that we have ever had. We have had a grand reunion and grand time together. I wish that July would come about three times in the course of the year, and the courts would quit and let us get together and have a good time. And one thing that has contributed very much to our pleasure this year is the excellent accommodations and the excellent friends that we have met here, not only members of the Association, but outside of it. We have been nicely entertained by this hotel; we have been nicely cared for in every single respect; and as expressing and voicing that sentiment, I offer for adoption this resolution:

WHEREAS, the management of the Hotel Victory, by its elaborate and tasteful arrangements for this convention, and those who so kindly took part in the program of Wednesday evening, have contributed so much to the comfort and entertainment of the members; now, therefore,

Resolved, That the hearty thanks of the Association are extended to them for their efforts in that behalf.

I move the adoption of the resolution.

JUDGE JOHNSON: I am very heartily in favor of the adoption of that resolution, but I want to have it understood that the attention of the proprietor of this hotel be not called to the fact that the resolution has been adopted, until after the Association has adjourned and the bills all paid.

MAJOR BRYAN: I move, as an amendment, that a copy of it be presented to the management by the Secretary.

JUDGE JOHNSON: I am opposed to the reading of it, because somebody might take advantage of it.

MAJOR BRYAN: I can't see how any one will take advantage of it.

JUDGE JOHNSON: I am not very apprehensive, however; but I didn't know but what it was offered with a view to a reduction of the bill on the part of the hotel.

The resolution was unanimously adopted.

MR. HARPER, Cincinnati: I move that the recommendations in the President's address be referred to the Committee on Legal Reform.

Seconded and carried.

MR. VAN DEMAN: I am reminded of a fact that I think may have an effect on the attendance upon this Association; that is, if we would take action here, so that we could officially request the common pleas judges all over the State to adjourn their courts at this time. While they very generally are not in session, yet down in my part of the State, unfortunately, there are several common pleas courts in session now. I thought a week ago it would be impossible for me to attend, having two cases assigned for trial this week, but I succeeded in getting them put over. I therefore move you, that the Secretary, over the official signature of the Association, send out, about the 1st of May next, a request to the common pleas judges all over the State, to suspend their courts during the week of the Bar Association, and give their influence to the attendance of the members of the bar upon this Association.

Seconded and carried.

MR. BATEMAN: I am requested by the Committee on Judicial Administration to say that the committee has organized, having agreed upon a selection of its officers, and is disposed to and will address itself industriously and earnestly to such work as may be assigned to it, or such as, in their judgment, they think important; and they desire that any suggestions as any member of the Association may have to make with reference to amendments to the laws shall be submitted to the committee. Mr. Cushing is secretary of the committee, and any communications addressed to him, or any communication submitted to any member of the committee, will receive full and prompt attention. The committee are desirous of performing their duty fully and earnestly.

MR. FITCH: There has been called to my attention by some members of this Association, the fact that something ought to be done to cause an increase in attendance at our meetings. I move that the Executive Committee be entrusted with that matter, to do what in their judgment will tend to promote or largely increase the attendance upon this Association at its future meetings. I think it should be specially referred to the committee. I am the only member from our county. Perhaps the Executive Committee may be able to take some steps and some action which will lead to a largely increased membership.

JUDGE PIKE: I arose for practically the same purpose that my Brother Fitch had in mind. I now second his motion. I wish to be understood in advance, that whatever I say is not by way of censure of anybody. Sometimes some things can be avoided and done otherwise than they are done. I would ask the Executive Committee to bear this in mind. For instance, last year we did not get the annual reports until in March, and in Toledo, where we have forty odd members, and where

they were printed, some of them didn't get their reports until I had personally taken upon myself to find out whether all the forty odd members had received their reports. Another thing—in former years it has been my experience that the circular advising us of the program came out at least two weeks before the meeting. If they get at least two weeks in advance into the hands of every member, it gives them something to talk about and think about. This year we saw in the *Legal News* what the program was. In former years the Committee on Admissions was not so economical, and I think they were justified in it. They should have at least in the hands of two persons in each county blank applications. I think this year I have heard of only one in all Toledo. I used what few applications I brought here, and happened to have some on my hands from last year. All these little things should be provided in time before the meeting, to the members of the Association. I do not mean to censure the Executive Committee.

JUDGE MARVIN: There were but very few members in Summit county last year who got copies of the proceedings.

THE SECRETARY: They were mailed from Akron.

JUDGE PIKE: I paid eighty dollars for the expense of sending them.

THE SECRETARY: I wish to say in all fairness to Major Bryan, the Secretary last year, who prepared and sent out last year's report, that in the first place he left from here on an European trip, and did not return for two months. When he got back he was delayed by the printer, somewhat due to the fact that the printing was done at Toledo and he was living at Akron, and the whole affair was very exasperating to him. If the reports were not received by the members at Akron, it certainly

was an oversight on his part, for I knew he intended to mail every one. If any member has not received a copy, by sending to me he can get a copy. And further, it is the province of the Executive Committee to prepare this report. As a matter of fact, it is all done by the Secretary.

Mr. Fitch's motion prevailed.

MR. FERRIS, Cincinnati: I wish to ask the indulgence of the Association a few moments, and later to introduce a resolution to be referred to a committee, or a special committee. It is in the line of an address made by Judge Rufus B. Smith, before the Bar Association of Cincinnati, in January of this year. I suppose that most of the members of the State Bar Association have received copies of that address, because under the action of the Cincinnati Bar Association copies were sent, or supposed to be sent, to every member of the State Bar Association, and to all the members of the local bar associations of the State. That address has received so much approval from the members of the Cincinnati bar, that there has been a desire to have it crystallized into some definite form of relief for the courts. There are a number of large cities in Ohio, and I suppose that they are all suffering from the clogging of business as the courts are in Cincinnati, and it is simply my object here to make my point clear to the members of the Association, and to refresh their memories about it, and to keep, if possible, that address from sleeping the sleep that knows no awakening. In the first place, he advocated in his address the relief of the Supreme Court. That has been relieved, in a measure; but his address was full and prolific of suggestions for the relief of that court. One or two points that he made with regard to the Circuit Court, I think are matters that this State Bar Association could well devote itself to with a great deal of diligence, and bring

up the bar to the modern era of practice in the courts. For instance, he made the point, quoting from the decision of Judge Ranney, that litigants were not entitled to an appeal as a matter of right, but it was a matter of privilege. Therefore, he emphasized the point that there should be an end of magistrates' cases in the Circuit Court—a most admirable suggestion. It struck the members of the bar in our region, that magistrates' cases should pass into the Common Pleas, and have their end in the Circuit Court, no matter what the amount involved. That was a valuable suggestion. Another, was that equity cases should have but one trial on the facts, and that no appeal should lie to the Circuit Court in any equity case. It seemed to the bar of Cincinnati, and it must commend itself to a great many practitioners, that that was a valuable suggestion. It can be seen that perhaps fifty years ago two trials were calculated to facilitate justice, but with modern facilities for travel and for obtaining evidence and getting ready for trial, it is just as easy now to try an equity case once and finish it, as it is a law case. Therefore, that was considered a valuable suggestion. Then, coming to the Common Pleas Court, he made some very admirable suggestions, and referred to the practice of the English courts, showing how far ahead they were in some respects of our American courts. For instance, upon the trial of a case brought upon a promissory note for liquidated damages, he said that we were very far behind the English practice, as many of you are aware; that in such a case, there should be a form for the plaintiff to set his case down for trial, and for judgment within a few days after service—within ten days after the filing of the petition. Just look at it. We all have individual cases, wherein there have been innumerable and unwarranted delays. Take a promissory note—a case Judge Smith referred to—where a suit is brought upon a promissory note, by dilatory pleas known to the practice,

by motion and demurrer, and then an answer is filed—a general denial. Perhaps it is two years before we can get the case where it can be tried on its merits. Then the defense disappears, and we are able to get the judgment which we should have had perhaps two years before. Another point was on the return day of summons. Why should it take five weeks to get a return on a summons? Why should the defendant be allowed three weeks to come in after summons, before rule day for answer? That was proper fifty years ago. Now, with the increased facilities for obtaining communication, it seems to me that is one of the great defects in our administration of justice. He spoke also as to requiring unanimity of the jury in reaching a verdict, and advocated that nine should be sufficient. Why not, in civil cases? Why do we not break away from that practice? It is a relic of the dark ages. This is a thing we want to get rid of in the jury system. Our mother country has gone beyond it, why should Ohio stand still and insist upon a unanimity of verdict, where one man can defeat a verdict? He states the English practice to be to require the jury to be out three hours before allowing anything less than a unanimous verdict, but after they have been out three hours, then a three-fourths verdict can be brought in.

These are some of Judge Smith's suggestions. I do not pretend to do full justice to them. I wish to bring them before the State Bar Association. Judge Smith has received a great many commendatory letters from all over the state in regard to his address. I have a form of a resolution for the appointment of a special committee, but if it is thought best to refer it to the Committee on Legal Reform and Judicial Administration, I have no objection. I thought a special committee might accomplish more, perhaps, than the general committee. The resolution is as follows:

Resolved, That a special committee of ten, composed of one member from each judicial district, be appointed to consider and report at the next meeting of this association, as to the advisability and practicability of revising some of the rules of practice and procedure under the code, relating to trial, and procedure on appeal and error, with a view of facilitating the administration of justice in Ohio; and that the committee so to be appointed be empowered to draw upon the treasurer, for funds sufficient to defray traveling and other necessary expenses.

JUDGE MARVIN: We ought not to overlook this fact, that there will be no meeting of the legislature until after the association has had another meeting.

MR. FERRIS: I understand that, and I think it is important, because it contemplates action at the next annual meeting. I do not wish to be understood as asking to go rough-shod into it and make reforms, or to suggest anything of the kind; but to report to this association at the next meeting something to be done in the line suggested. It is a denial of justice, as the president has suggested in his address, in regard to the circuit court—three years behind, with us. You can't get a case tried in the circuit court. While it may not be so throughout the state, I dare say in the other large cities it is. As it is with us, it amounts to a denial of justice. From a purely selfish standpoint, there ought to be expedition in the trial of cases—a help, along in that direction. I may say that the recommendations of these resolutions were adopted unanimously by the Bar Association of Cincinnati, at a meeting which contained the largest representation of the bar of the city that we ever had, and there was no voice against the recommendations of Judge Smith. I would be glad if this association would take this matter up, and take some action that might develope or crystallize into a movement that would accomplish something.

MR. WILSON: I move, as an amendment, that the matter be referred to the Committee on Judicial Administration and Legal Reform, instead of to a special committee.

The amendment prevailed, and then the resolution, thus amended, was adopted unanimously.

JUDGE JOHNSON: I move that this association now adjourn.

JUDGE HUNT: Before that motion is put, with the permission of the mover, I would move you that the thanks of the association be tendered to the president and the other officers, for the intelligent manner in which they have discharged their duties. The modesty of the president will prevent him from putting the question, and I will do it myself.

The motion was seconded, and being put to the house by Judge Hunt, was carried unanimously.

THE PRESIDENT: Before putting the motion to adjourn, brethren of the State Bar Association, I desire to thank you, one and all, for the kindness you have shown me, having been called to occupy this position unexpectedly, and, I am sorry to say, with a want of sufficient experience from actual attendance at meetings of the association. It was several years prior to last year since I had attended a meeting of the State Bar Association, but I resolved, when I came here last year and met my brethren of the bar of Ohio, and found what a magnificent set of men we had as members of the bar of Ohio, that I would know more of them, and become better acquainted with them, than I had been; and I trust each one of us, as we go away from this meeting, will make it a special duty to bring other brothers of the bar who ought to be here with us; for this should be practically a meeting of the entire bar of Ohio, collected together for the purpose of compar-

ing notes and consulting as to the best interests of, I will not say the profession, but of the people. For I take it that few of us, as members of the bar, fully realize the responsibility that rests upon us. I regard the bar as being substantially the preservative force of the country, and that unless we unite, for the purpose of promoting, not the interests of the bar, but the interests of the people, we would have a sad outlook for the future. Let us, as we go away from here, I repeat, make it our special duty to bring all the bar here, and come together and compare at each of these annual meetings, our views one with the other as to what the state of Ohio wants, and what the people want, for the purpose of preserving the rights of the individual and protecting the rights of society.

The motion to adjourn prevailed. So the 17th annual meeting of the Ohio State Bar Association adjourned *sine die.*

Officers, Committees and Members.

OFFICERS

SINCE

ORGANIZATION AT CLEVELAND, JULY 8-9, 1880.

Presidents.

*Hon. Rufus P. Ranney, - - - - Cleveland,
July 8, 1880, to July 21, 1881.

*Hon. Rufus King, - - - - - Cincinnati,
July 21, 1881, to December 28, 1882.

Hon. R. A. Harrison, - - - - Columbus,
December 28, 1882, to December 27, 1883.

*Gen. Durbin Ward, - - - - - Lebanon,
December 27, 1883, to December 31, 1884.

Gen. A. W. Jones, - - - - Youngstown,
December 31, 1884, to December 30, 1885.

*Hon. W. J. Gilmore, - - - - Columbus,
December 30, 1885, to December 29, 1886.

Hon. John A. McMahon, - - - - Dayton,
December 29, 1886, to December 28, 1887.

*Hon. E. P. Green, - - - - - Akron,
December 28, 1887, to July 12, 1888.

Hon. J. J. Moore, - - - - - Ottawa,
July 12, 1888, to July 18, 1889.

Col. J. T. Holmes, - - - - - Columbus,
July 18, 1889, to July 18, 1890.

*Hon. Henderson Elliott, - - - - Dayton,
July 18, 1890, to July 17, 1891.

* Deceased.

HON. SAMUEL F. HUNT, - - - Cincinnati,
July 17, 1891, to July 15, 1892.

HON. JOHN H. DOYLE, - - - - - Toledo,
July 15, 1892, to July 21, 1893.

HON. STEPHEN R. HARRIS, - - - Bucyrus,
July 21, 1893, to July 20, 1894.

HON. CHARLES PRATT, - - - - - Toledo,
July 20, 1894, to July 19, 1895.

JOHN J. HALL, ESQ., - - - - - Akron,
July 19, 1895, to July 17, 1896.

HON. GEORGE K. NASH, - - - Columbus,
July 17, 1896, to date.

Secretaries.

COL. J. T. HOLMES, - - - - Columbus,
July 8, 1880, to July 18, 1889.

WM. E. TALCOTT, ESQ., - - - Cleveland,
July 18, 1889, to July 17, 1891.

FREDERICK C. BRYAN, ESQ., - - - Akron,
July 17, 1891, to July 19, 1895.

HARRY B. ARNOLD, ESQ., - - - Columbus,
July 19, 1895, to date.

Treasurers.

W. J. BROADMAN, ESQ., - - - Cleveland,
July 9, 1880, to July 21, 1881.

*HENRY C. NOBLE, ESQ., - - - Columbus,
July 21, 1881, to December 28, 1882.

TELFORD GROESBECK, ESQ., - - Cincinnati,
December 28, 1882, to December 28, 1887,

HON. L. H. PIKE, - - - - - - Toledo,
December 28, 1887, to date.

* Deceased.

PLACE AND DATE OF MEETINGS OF THE ASSOCIATION.

Cleveland,	July 8 and 9, 1880.
Columbus,	December 28 and 29, 1880.
Toledo,	July 20 and 21, 1881.
Cincinnati,	December 27 and 28, 1882.
Columbus,	December 26 and 27, 1883.
Columbus,	December 30 and 31, 1884.
Dayton,	December 29 and 30, 1885.
Springfield,	December 28 and 29, 1886.
Toledo,	December 27 and 28, 1887.
Put-in-Bay,	July 11 and 12, 1888.
Put-in-Bay,	July 17 and 18, 1889.
Put-in-Bay,	July 16, 17 and 18, 1890.
Put-in-Bay,	July 14, 15 and 16, 1891.
Put-in-Bay,	July 13, 14 and 15, 1892.
Put-in-Bay,	July 19, 20 and 21, 1893.
Put-in-Bay,	July 18, 19 and 20, 1894.
Put-in-Bay,	July 17, 18 and 19, 1895.
Put-in-Bay,	July 15, 16 and 17, 1896.

OFFICERS.

President.

GEORGE K. NASH, - - - - Columbus

Secretary.

HARRY B. ARNOLD, - - - - Columbus

Treasurer.

L. H. PIKE, - - - - - - Toledo

Vice-Presidents.

1st District, - - John F. Follett, Cincinnati,
2d District, - - - J. M. Smith, Lebanon,
3d District, - - Justin H. Tyler, Napoleon,
4th District, - - E. B. King, Sandusky,
5th District, - - Alex. W. Krumm, Columbus,
6th District, - - S. G. Cummings, Mansfield,
7th District, - - L. M. Jewett, Athens,
8th District, - - John J. Adams, Zanesville,
9th District, - - J. B. Burrows, Painesville.
10th District, - - Jacob F. Burket, Findlay.

STANDING COMMITTEES.

Executive Committee.

Chairman, - - J. D. Sullivan, Columbus.
Secretary, - - George W. Carpenter, Delaware.

1st District—Frederick W. Moore.
2d " R. D. Marshall, Dayton.
3d " C. A. Seiders, Paulding.
4th " N. D. Tibbals, Akron.
5th " J. D. Sullivan, Columbus.
6th " George W. Carpenter, Delaware.
7th " John Ferguson, New Lexington.
8th " W. B. Crew, McConnelsville.
9th " James P. Wilson, Youngstown.
10th " James O. Troup, Bowling Greene.

George K. Nash, Columbus, } *Ex Officio.*
Harry B. Arnold, Columbus, }

Committee on Judicial Administration and Legal Reform.

Chairman, - - Warner M. Bateman, Cincinnati.
Secretary, - - William E. Cushing, Cleveland.

1st District—Warner M. Bateman, Cleveland.
2d " John A. Shauck, Dayton.
3d " S. S. Wheeler, Lima.
4th " Wm. E. Cushing, Cleveland.
5th " John N. Van Deman, Washington C. H.
6th " A. R. McIntire, Mt. Vernon.
7th " A. C. Thompson, Portsmouth.
8th " Gilbert D. Munson, Zanesville.
9th " E. H. Fitch, Jefferson.
10th " F. S. Monnett, Bucyrus.

Committee on Admissions and Elections.

Chairman, - - H. A. Mykrantz, Ashland.
Secretary, - - Sherman M. Granger, Zanesville.

1st District—Frank F. Oldham, Cincinnati.
2d " Marcus Shoup, Xenia.
3d " John M. Sheets, Ottawa.
4th " J. F. Laning, Norwalk.
5th " W. O. Henderson, Columbus.
6th " H. A. Mykrantz, Ashland.
7th " W. S. James, Waverly.
8th " Sherman M. Granger, Zanesville.
9th " G. F. Arrel, Youngstown.
10th " L. Piper, Marysville.

Committee on Legal Education.

Chairman, - - Gilbert H. Stewart, Columbus.
Secretary, - - - C. J. Scroggs, Bucyrus.

1st District—Gustavus H. Wald, Cincinnati.
2d " Elam Fisher, Eaton.
3d " James L. Price, Lima.
4th " James M. Ritchie, Toledo.
5th " Gilbert H. Stewart, Columbus.
6th " Edward Kibler, Newark.
7th " A. R. Johnson, Ironton.
8th " J. H. Mackay, Cambridge.
9th " I. N. Hathaway, Chardon.
10th " C. J. Scroggs, Bucyrus.

Committee on Grievances.

Chairman, - - Edwards Ritchie, Cincinnati.
Secretary, - - - C. D. Wightman, Xenia.

1st District—Edwards Ritchie, Cincinnati.
2d " Chase Stewart, Springfield.
3d " E. R. Eastman, Ottawa.
4th " C. D. Wightman, Medina.

5th District—Geo. L. Barrett, Hillsboro.
6th " W. J. Weirick, Loudenville.
7th " H. C. Johnson, Gallipolis.
8th " J. H. Hollingsworth, St. Clairsville.
9th " C. W. Osborne, Painesville.
10th " W. E. Scofield, Marion.

Committee on Legal Biography.

Chairman, - - - S. R. Harris, Bucyrus.
Secretary, - - - E. B. Dillon, Columbus.

1st District—Aaron A. Ferris, Cincinnati.
2d " James I. Alread, Greenville.
3d " J. J. Moore, Ottawa.
4th " W. F. Carr, Cleveland.
5th " E. B. Dillon, Columbus.
6th " Manuel May, Mansfield.
7th " J. W. Bannon, Portsmouth.
8th " J. A. Galleher, Bellaire.
9th " F. E. Hutchins, Warren.
10th " S. R. Harris, Bucyrus.

(Special) Committee on Railroads and Transportation.

R. D. Marshall, - - - Dayton.
J. T. Brooks, - - - - Salem.

(Special) Committee on New Rooms for Supreme Court and State Law Library.

J. W. Keifer, - - - Springfield.
J. D. Sullivan, - - - Columbus.
R. D. Marshall, - - - Dayton.
Elam Fisher, - - - - Eaton.
Asa W. Jones, - - - - Youngstown.
Stephen R. Harris, - - - Bucyrus.

Delegates to American Bar Association.

Henry C. Ranney, - - - Cleveland.
Gilbert D. Munson, - - Zanesville.
Gustavus H. Wald, - - - Cincinnati.

Members Arranged by Judicial Districts.

FIRST.

Bateman, Warner M,	Cincinnati
Cleveland, Harlan,	"
Clingman, Edward,	"
Cox, Joseph,	"
Ferris, Aaron A,	"
Follett, John F,	"
Groesbeck, Herman,	"
Harper, J C,	"
Herron, John W,	"
Harmon, Judson,	"
Hertenstein, Fred,	"
Hunt, Samuel F,	"
James, Francis B,	"
Jenney, Herbert,	"
Johnson, Simeon M,	"
Lotze, C M,	"
Mathews, C B,	"
Maxwell, Lawrence, Jr,	"
Moore, Fred'k W,	"
Morrill, Henry A,	"
Oldham, F F,	"
O'Hara, Joseph W,	"
Plummer, John L,	"
Ramsey, Robert,	"
Rehm, Ernest,	"
Riley, George B,	"
Ritchie, Edwards,	"
Richards, Channing,	"
Robinson, Nellie G,	"

Sayler, John R,	Cincinnati
Shunk, C K,	"
Smith, Rufus B,	"
Spiegel, F S,	"
Stevens, Charles H,	"
Tafel, Gustave,	"
Taft, Wm H,	"
Wald, Gustavus H,	"
Warrington, J W,	"
Werner, Gustav R,	"
Wilson, Moses F,	"
Wright, D Thew,	"

SECOND.

Alread, J I,	Greenville
Bowman, D W,	"
Clark, John C,	"
Clark, Milton,	Lebanon
Cochran A P,	Springfield
Dustin, C W,	Dayton
Fisher, Elam,	Eaton
Frank, John L H,	Dayton
Ganz, M K,	Troy
Gunckel, L B,	Dayton
Hartman, Val,	Greenville
Hagan, F M,	Springfield
Johnson, James,	"
Keifer, Wm W,	"
Keifer, J Warren,	"
Kyle, Thomas B,	Troy
Limbert, L F,	Greenville
Marshall, R D,	Dayton
Martin, Oscar T,	Springfield
McMahon, John A,	Dayton
Millikin, Thomas,	Hamilton
Neal, James E,	"
Patterson, J C,	Dayton

Sage, George R,	Lebanon
Shearer, C C,	Xenia
Shoup, Marcus,	"
Smith, J M,	Lebanon
Spriggs, John M,	Dayton
Stewart, Chase,	Springfield
Young, George R,	Dayton
Zimmerman, John L,	Springfield

THIRD.

Bentley, Charles S,	Bryan
Blume, N L,	Wapakoneta
Boothman, M M,	Bryan
Cable, Davis J,	Lima
Eastman, E R,	Ottawa
Emery, Thomas,	Toledo
Hackedorn, W E,	Indianapolis, Ind
Kingsbury, B B,	Defiance
Krauss, W C G,	Ottawa
Layton, C A,	Wapakoneta
Leasure, James P,	Ottawa
Leidig, John W,	Bryan
Mathers, Hugh T,	Cleveland
Mooney, W T,	St. Mary's
Moore, J J,	Ottawa
Phipp, W H,	Paulding
Prophet, H S,	Lima
Price, James J,	"
Reagan, James P,	Napoleon
Richie, Walter B,	Lima
Seiders, C A,	Paulding
Sheets, J M,	Ottawa
Snook, W H,	Paulding
Stueve, C A,	Wapakoneta
*Thomas, A Z,	Ottawa

* Deceased.

Tyler, Justin H,	Napoleon
Werner, J,	Leipsic
Wheeler, S S,	Lima

FOURTH.

Belford, Irvin,	Toledo
Boynton, W W,	Cleveland
Doyle, John H,	Toledo
Upson, Wm H,	Akron
Ammerman, Chas,	Barberton
Angell, E A,	Cleveland
Ashley, Charles S,	Toledo
Baker, Rufus H,	"
Barber, Jason A,	"
Bartlett, Joseph R,	Fremont
Beavis, William H,	Cleveland
Bierly, Thos N,	Toledo
Brewer, A T,	Cleveland
Brewer, Chas B,	Akron
Brumback, O S,	Toledo
Bryan, Frederick C,	Akron
Bunts, Harry C,	Cleveland
Buckland, H S,	Fremont
Burton, Theodore E,	Cleveland
Bunker, Henry S,	Toledo
Carr, W F,	Cleveland
Carpenter, Frank B,	"
Cook, E S,	"
Chase, George A,	Toledo
Craig, G Ray,	Norwalk
Crane, A P,	Toledo
Cummings, Jos W,	"
Cushing, William E,	Cleveland
Dempsey, James H,	"
Dewey, Thomas C,	Clyde
Dickey, Moses R,	Cleveland

Doyle, Dayton A,	Akron
Dustin, Alton C,	Cleveland
Finch, J D,	Clyde
Force, Manning F,	Sandusky
Fuller, R,	Toledo
Fuller, Clifford W,	Cleveland
Garfield, Harry R,	"
Garfield, James A,	"
Geddes, F L,	Toledo
Goff, Frank H,	Cleveland
Gordon, William.	Port Clinton
Grant, Charles R,	Akron
Greer, J T,	Toledo
Groot, Geo A,	Cleveland
Guenther, W G,	"
Gunsaullus, F D,	Plymouth
Hall, John J,	Akron
Harmon, Gilbert,	Toledo
Harris, Wm H,	"
Hayes, Burchard A,	"
Haynes, George R,	"
Herrick, Frank R,	Cleveland
Herrick, J E,	"
Hopkins, E A,	"
Hone, Parks,	Toledo
Hoyt, James H,	Cleveland
Holbrook, Ralph S,	Toledo
Hull, Linn W,	Sandusky
*Hurd, Frank H,	Toledo
Huntsberger, I N,	Toledo
Jones, J M,-	Cleveland
Johnson, Thomas L,	"
King, Edmund B,	Sandusky
King, H E,	Toledo
Kohn, Samuel,	"

* Deceased.

Kohler, G C,	Akron
Kohler, Jacob A,	Akron
Kline, Virgil P,	Cleveland
Kumler, John F,	Toledo
Laning, J F,	Norwalk
Lewis, Charles T,	Toledo
Marvin, U L,	Akron
McCristol, John F,	Sandusky
McDonald, T J,	Toledo
McKisson, Robert,	Cleveland
Melchers, Milo,	Toledo
Merrill, A H,	"
Millard, I I,	"
Morris, L W,	"
McKee, Richard,	"
McKnight, Joseph R,	Norwalk
Musser, Harvey,	Akron
Norton, M G,	Cleveland
Nye, D J,	Elyria
Parks, L K,	Toledo
Phinney, Arthur,	Sandusky
Pike, Louis H,	Toledo
Potter, E D, Jr,	"
Pratt, Charles,	"
Pugsley, Isaac P,	"
Ranney, Henry C,	Cleveland
Rhodes, E H,	Toledo
Ricks, A J,	Cleveland
Rickenbaugh, F W,	Toledo
Ritchie, J M,	"
Russell, L A,	Cleveland
Sanford, Henry C,	Akron
Scribner, Harvey,	Toledo
Scribner, C H,	"
Smith, A L,	"
Smith, Barton,	"

Southard, E B,	Toledo
Squire, Andrew,	Cleveland
Stearns, Arthur A,	"
Stuart, Edwin W,	Akron
Sumner, Charles E,	Toledo
Swayne, F B,	"
Swayne, Noah H, Jr,	"
Talcott, W E,	Cleveland
Thatcher, Charles A,	Toledo
Thurston, Johnston,	"
Tibbals, Newell D,	Akron
Tolerton, E W,	Toledo
Tracey, Thomas,	"
Treadway, Francis,	Cleveland
Van Campen, H,	Toledo
Vickery, Jesse,	Bellevue
Waite, Richard,	Toledo
Wannamaker, R N,	Akron
Wheeler, T W,	Toledo
White, Henry C,	Cleveland
White, John G,	"
Wildman, Samuel A,	Norwalk
Wightman, C D,	Medina
Williamson, Samuel E,	Cleveland
Wilson, Charles G,	Toledo
Young, W E,	Akron
Zehring, Aug,	Cleveland

FIFTH.

Nash, George K,	Columbus
Owen, Selwyn N,	"
Thurman, Allen G,	"
Williams, M J,	Washington C H
Albery, F F D,	Columbus
Albery, H B,	"
Arnold, H B,	"

Aubert, Chas,	Columbus
Burr, Charles E, Jr,	"
Bingham, Edw T,	Washington, D C
Carpenter, P B,	Washington C H
Case, Charles,	Columbus
Chapin, John W,	"
Clark, M L,	Chillicothe
Daugherty, Henry M,	Washington C H
Davis, Frank A,	Columbus
Dillon, Edmund B,	"
Gilmore, William J,	"
Garrett, Geo L,	Hillsborough
Harrison, Richard A,	Columbus
Henderson, W O,	"
Hyneman, E L,	"
Hogsett, F H,	Hillsboro
Holmes, J T,	Columbus
Hubbard, Frank C,	"
Huling, Cyrus W,	"
Hunter, C O,	"
Jahn, Carl G,	"
Jones, Paul,	"
Krumm, Alex W,	"
Lincoln, George,	London
Miller, Ira H,	Columbus
Minshall, Thaddeus	"
McGuffey, John G,	"
McMahon, H H,	"
Mooney, J W,	"
Morton, E C,	"
Patterson, M R,	"
Platt, R H,	"
Randall, E O,	"
Sharp, Amor,	"
Sams, Oliver N,	Hillsboro
Steel, S F,	"

Stewart, Gilbert H,	Columbus
Sullivan, John D,	"
Taylor, Henry C,	"
Tussing, L Benton,	"
Van Deman, John N,	Washington C H
Watson, David K,	Columbus
Watson, James,	"
Wiggins, Willis H,	Chillicothe

SIXTH.

Welker, Martin,	Wooster
Bell, H E,	Mansfield
Brucker, Lewis,	"
Carpenter, George W,	Delaware
Cooper, William C,	Mt Vernon
Coyner, George,	Delaware
Cummings, S G,	Mansfield
Devor, Wm T,	Ashland
Follett, Charles,	Newark
Funk, Ross W,	Wooster
Gill, John S,	Delaware
Henry, Joseph P,	Mansfield
Houck, Lewis B,	Mt Vernon
James, E W,	Coshocton
Kenney, Charles J,	Ashland
Kibler, Edward,	Newark
Koons, W M,	Mt Vernon
Levering, Frank O,	"
Lybrand, E G,	Delaware
May, Manuel,	Mansfield
Mykrantz, H A,	Ashland
McBride, C E,	Mansfield
McElroy, C H,	Delaware
McIntire, A R,	Mt Vernon
Neal, Hugh,	"
Nicoll, George A,	Ashland

Patterson, F N,	Ashland
Pomerene, Frank E,	Coshocton
Pomerene, W R,	"
Pomerene, Julius C,	"
Sapp, Dwight E,	Mt Vernon
Seward, C W,	Newark
Sewell, W L,	Mansfield
Stilwell, A H,	Ashland
Stivers, Frank A,	Ripley
Waight, J B,	Mt Vernon
Weirick, W J,	Loudenville

SEVENTH.

Bradbury, J P,	Pomeroy
Follett, Martin D,	Marietta
Martin, Chas D,	Lancaster
Bannon, J W,	Portsmouth
Cherrington, Thomas,	Ironton
Davis, Lot,	"
Follett, A D,	Marietta
Grosvenor, Charles,	Athens
James, W D,	Waverly
Jewett, L M,	Athens
Johnson, A R,	Ironton
Johnson, Hollis C,	Gallipolis
Thompson, A C,	Portsmouth

EIGHTH.

Adams, John J,	Zanesville
Granger, Moses M,	"
Granger, Sherman M,	"
Cook, J M,	Steubenville
Crew, W B,	McConnellsville
Gallaher, J A,	Bellaire
Heinlein, J C,	Bridgeport
Humphrey, Isaac,	Zanesville
Lewis, P P,	Steubenville

Mackay, J H,	Cleveland
Munson, Gilbert D,	Zanesville
Sheppard, A J,	"
Southard, F H,	"
Winn, Simeon M,	"

NINTH.

Spear, William Thomas,	Warren
Ambler, Ralph S,	Canton
Anderson, William S,	Youngstown
Arrel, George F,	"
Baldwin, Frank L,	Massillon
Bow, Charles C,	Canton
Brooks, J Thwing,	Salem
Burrows, J B,	Painesville
Cox, Allen M,	Conneaut
Clark, A H,	East Liverpool
Day, William R,	Canton
Fitch, Edward H,	Jefferson
Fitch, Winchester,	Geneva
Gilmer, Thomas H,	Warren
Gilmer, T I,	"
Hall, Theodore,	Ashtabula
Hathaway, I N,	Chardon
Harper, Homer,	Painesville
Harris, H W,	Alliance
Hutchins, Francis E,	Warren
Johnson, J R,	Youngstown
Jones, Asa W,	"
Kinney, James, Jr,	"
Lawyer, Charles,	Jefferson
Lynch, William A,	Canton
Maline, William A,	Youngstown
McKinley, William,	Canton
Norris, M A,	Youngstown
Northway, Stephen A,	Jefferson

Osborne, C W,	Painesville
Sanderson, T W,	Youngstown
Turner, Thomas F,	Canton
Thayer, A A,	"
Wilson, James P,	Youngstown
Woolf, A J,	"

TENTH.

Burket, Jacob F,	Findlay
McCauley, John,	Tiffin
West, William H,	Bellefontaine
Black, L C,	Findlay
Blackford, A,	"
Bennett, S W,	Bucyrus
Betts, John E,	Findlay
Burket, Harlan F,	"
Canary, William J,	Bowling Green
Doty, John N,	Findlay
Finley, E B,	Bucyrus
Gallinger, Chas,	"
Graber, Alfred,	Findlay
Hare, D D,	Upper Sandusky
Harris, Stephen R,	Bucyrus
Hopley, John E,	"
Johnson, R W,	Galion
Lawrence, William,	Bellefontaine
Lutes, Nelson B,	Tiffin
Lutes, Nettie C,	"
Monnett, F S,	Bucyrus
Noble, Warren P,	Tiffin
Norris, C H,	Marion
Parker, Robert S,	Bowling Green
Piper, L,	Marysville
Platt, J M,	Findlay
Price, John A,	Bellefontaine
Rohn, J K,	Tiffin
Scroggs, C J,	Bucyrus

Scroggs, Jacob,	Bucyrus
Seney, Henry M,	Kenton
Shafer, M D,	Findlay
Smalley, Allen,	Upper Sandusky
Troup, James O,	Bowling Green
Volrath, Edward,	Bucyrus
West, William A,	Bellefontaine

MEMBERS

OF THE

Ohio State Bar Association.

Albery, F F D,	Columbus
Albery, H B,	"
Adams, John J,	Zanesville
Alread, J I,	Greenville
Ambler, Ralph S,	Canton
Ammerman, Chas,	Barberton
Anderson, William S,	Youngstown
Andrews, Allen,	Hamilton
Angell, E A,	Cleveland
Arnold, H B,	Columbus
Arrel, George F,	Youngstown
Ashley, Charles S,	Toledo
Aubert, Chas,	Columbus
Baker, Rufus H,	Toledo
Baldwin, Frank L,	Massillon
Bannon, J W,	Portsmouth
Barber, Jason A,	Toledo
Bartlett, Joseph R,	Fremont
Bateman, Warner M,	Cincinnati
Beavis, William H,	Cleveland
Belford, Irvin,	Toledo
Bell, H E,	Mansfield
Bennett, S W,	Bucyrus
Bentley, Charles S,	Bryan
Betts, John E,	Findlay
Bierly, Thos N,	Toledo
Bingham, Edw T,	Washington, D C

Black, L C,	Findlay
Blackford, A,	"
Blume, N L,	Wapakoneta
Boothman, M M,	Bryan
Bowman, D W,	Greenville
Bow, Charles C,	Canton
Boynton, W W,	Cleveland
Bradbury, J P,	Pomeroy
Brewer, A T,	Cleveland
Brewer, Chas B,	Akron
Brooks, J Thwing,	Salem
Brucker, Lewis,	Mansfield
Brumback, O S,	Toledo
Bryan, Frederick C,	Akron
Buckland, H S,	Fremont
Bunker, Henry S,	Toledo
Burket, Harlan F,	Findlay
Burket, Jacob F,	"
Burr, Charles E, Jr,	Columbus
Burrows, J B,	Painesville
Bunts, Harry C,	Cleveland
Burton, Theodore E,	Cleveland
Cable, Davis J,	Lima
Canary, William J,	Bowling Green
Carpenter, Frank B,	Cleveland
Carpenter, P B,	Washington C H
Carpenter, George W,	Delaware
Carr, W F,	Cleveland
Case, Charles,	Columbus
Chapin, John W,	"
Chase, George A,	Toledo
Cherrington, Thomas,	Ironton
Clark, A H,	East Liverpool
Clark, John C,	Greenville
Clark, Milton,	Lebanon

Clark, M L,	Chillicothe
Cleveland, Harlan,	Cincinnati
Clingman, Edward,	"
Cochran A P L,	Springfield
Cook, E S,	Cleveland
Cook, J M,	Steubenville
Cooper, William C,	Mt Vernon
Copeland, Geo D,	Marion
Cox, Allen M,	Conneaut
Cox, Joseph,	Cincinnati
Coyner, George,	Delaware
Craig, G Ray,	Norwalk
Crane, A P,	Toledo
Crew, W B,	McConnellsville
Cummings, Jos W,	Toledo
Cummings, S G,	Mansfield
Cushing, William E,	Cleveland
Daugherty, Henry M,	Washington C H
Davis, Frank A,	Columbus
Davis, Lot,	Ironton
Day, William R,	Canton
Dempsey, James H,	Cleveland
Devor, Wm T,	Ashland
Dewey, Thomas C,	Clyde
Dickey, Moses R,	Cleveland
Dillon, Edmond B,	Columbus
Doty, John N,	Findlay
Doyle, Dayton A,	Akron
Doyle, John H,	Toledo
Dustin, Alton C,	Cleveland
Dustin, C W,	Dayton
Eastman, E R,	Ottawa
*Elliott, Henderson,	Dayton
Emery, Thomas,	Toledo

* Deceased.

Ferris, Aaron A,	Cincinnati
Finley, E B,	Bucyrus
Fisher, Elam	Eaton
Finch, J D,	Clyde
Fitch, Edward H,	Jefferson
Fitch, Winchester,	Geneva
Follett, A D,	Marietta
Follett, Charles,	Newark
Follett, John F,	Cincinnati
Follett, Martin D,	Marietta
Force, Manning F,	Sandusky
Frank, Jno L. H,	Dayton
Fuller, Clifford W,	Cleveland
Fuller, R,	Toledo
Funk, Ross W,	Wooster
Gallaher, J A,	Bellaire
Gallinger, Chas,	Bucyrus
Ganz, M K,	Troy
Garfield, Harry R,	Cleveland
Garfield, James A,	"
Garrett, Geo L,	Hillsborough
Geddes, F L,	Toledo
Gilbert, L L,	Pittsburgh, Pa
Gill, John S,	Delaware
Gilmer, T I,	Warren
Gilmer, Thomas H,	"
*Gilmore, William J,	Columbus
Goff, Frank H,	Cleveland
Gordon, William,	Port Clinton
Graber, Alfred,	Findlay
Granger, Moses M,	Zanesville
Granger, Sherman M,	"
Grant, Charles R,	Akron
Greer, J T,	Toledo
Groesbeck, Herman,	Cincinnati

* Deceased.

Grosvenor, Charles,	Athens
Groot, Geo A,	Cleveland
Guenther, W G,	"
Gunckel, L B,	Dayton
Gunsaullus, F D,	Plymouth
Hackedorn, W E,	Indianapolis, Ind
Hagan, F M,	Springfield
Hall, John J,	Akron
Hall, Theodore,	Ashtabula
Hare, D D,	Upper Sandusky
Harmon, Gilbert,	Toledo
Harmon, Judson,	Cincinnati
Harper, Homer,	Painesville
Harper, J C,	Cincinnati
Harris, H W,	Alliance
Harris, Stephen R,	Bucyrus
Harris, Wm H,	Toledo
Harrison, Richard A,	Columbus
Hartman, Val,	Greenville
Hathaway, I N,	Chardon
Hayes, Burchard A,	Toledo
Haynes, George R,	"
Heinlein, J C,	Bridgeport
Henderson, W O,	Columbus
Henry, Joseph P,	Mansfield
Herrick, Frank R,	Cleveland
Herrick, J E,	"
Herron, John W,	Cincinnati
Hertenstein, Fred,	"
Holbrook, Ralph S,	Toledo
Hogsett, F H,	Hillsboro
Holmes, J T,	Columbus
Hone, Parks,	Toledo
Hopkins, E A,	Cleveland

* Deceased.

Hopley, John E,	Bucyrus
Hoyt, James H,	Cleveland
Hubbard, Frank C,	Columbus
Huling, Cyrus W,	"
Hull, Linn W,	Sandusky
Humphrey, Isaac,	Zanesville
Hunt, Samuel F,	Cincinnati
*Hurd, Frank H,	Toledo
Huntsberger, I N,	Toledo
Houck, Lewis B,	Mt Vernon
Hunter, C O,	Columbus
Hutchins, Francis E,	Warren
Hyneman, E L,	Columbus
Jahn, Carl G,	"
James, E W,	Coshocton
James, Francis B,	Cincinnati
James, W D,	Waverly
Jenney, Herbert,	Cincinnati
Jewett, L M,	Athens
Johnson, A R,	Ironton
Johnson, James,	Springfield
Johnson, R W,	Galion
Johnson, Simeon M,	Cincinnati
Johnson, Thomas L,	Cleveland
Johnston, Hollis C,	Gallipolis
Johnston, J R,	Youngstown
Jones, Asa W,	"
Jones, J M,	Cleveland
Jones, Paul,	Columbus
Keifer, J Warren,	Springfield
Keifer, Wm W,	"
Kenney, Charles J,	Ashland
Kibler, Edward,	Newark
King, Edmund B,	Sandusky

* Deceased.

King, H E,	Toledo
Kingsbury, B B,	Defiance
Kinney, James, Jr,	Youngstown
Kline, Virgil P,	Cleveland
Kohler, G C,	Akron
Kohler, Jacob A,	"
Kohn, Samuel,	Toledo
Koons, W M,	Mt Vernon
Krauss, W C G,	Ottawa
Krumm, Alex W,	Columbus
Kumler, John F,	Toledo
Kyle, Thomas B,	Troy
Laning, J F,	Norwalk
Lawrence, William,	Bellefontaine
Lawyer, Charles,	Jefferson
Layton, C A,	Wapakoneta
Leasure, James P,	Ottawa
Leedom, John S,	Urbana
Leidig, John W,	Bryan
Levering, Frank O,	Mt. Vernon
Lewis, Charles T,	Toledo
Lewis, P P,	Steubenville
Limbert, L F,	Greenville
Lincoln, George,	London
Lotze, C M,	Cincinnati
Lutes, Nelson B,	Tiffin
Lutes, Nettie C,	"
Lybrand, E G,	Delaware
Lynch, William A,	Canton
Mackay, J H,	Cleveland
Maline, William A,	Youngstown
Marshall, R D,	Dayton
Martin, Chas D,	Lancaster
Martin, Oscar T,	Springfield
Marvin, U L,	Akron

Mathers, Hugh T,	Cleveland
Matthews, C B,	Cincinnati
Maxwell, Lawrence, Jr,	"
May, Manuel,	Mansfield
McBride, C E,	Mansfield
McCauley, John,	Tiffin
McCristol, John F,	Sandusky
McDonald, T J,	Toledo
McElroy, C H,	Delaware
McGuffey, John G,	Columbus
McIntire, A R,	Mt Vernon
McKee, Richard,	Toledo
McKinley, William,	Canton
McKisson, Robert,	Cleveland
McKnight, Joseph R,	Norwalk
McMahon, Harry H,	Columbus
McMahon, John A,	Dayton
Melchers, Milo,	Toledo
Merrill, A H,	"
Millard, I I,	"
Miller, Ira H,	Columbus
Millikin, Thomas,	Hamilton
Minshall, Thaddeus A	Columbus
Monnett, F S,	Bucyrus
Mooney, J W,	Columbus
Mooney, W T,	St. Mary's
Moore, Fred'k W,	Cincinnati
Moore, J J,	Ottawa
Morrill, Henry A,	Cincinnati
Morris, L W,	Toledo
Morton, E C,	Columbus
Munson, Gilbert D,	Zanesville
Musser, Harvey,	Akron
Mykrantz, H A,	Ashland
Nash, George K,	Columbus
Neal, Hugh,	Mt. Vernon

Neal, James E,	Hamilton
Nicoll, George A,	Ashland
Noble, Warren P,	Tiffin
Norris, C H,	Marion
Norris, M A,	Youngstown
Northway, Stephen A,	Jefferson
Norton, M G,	Cleveland
Nye, D J,	Elyria
O'Hara, Joseph W,	Cincinnati
Oldham, F F,	"
Osborne, C W,	Painesville
Owen, Selwyn N,	Columbus
Parker, Robert S,	Bowling Green
Parks, L K,	Toledo
Patterson, F N,	Ashland
Patterson, J C,	Dayton
Patterson, M R,	Columbus
Phinney, Arthur,	Sandusky
Phipp, W H,	Paulding
Pike, Louis H,	Toledo
Piper, L,	Marysville
Platt, J M,	Findlay
Platt, R H,	Columbus
Plummer, John L,	Cincinnati
Pomerene, Frank E,	Coshocton
Pomerene, Julius C,	"
Pomerene, W R,	"
Potter, E D, Jr,	Toledo
Pratt, Charles,	"
Prophet, H S,	Lima
Price, James J,	"
Price, John A,	Bellefontaine
Pugsley, Isaac P,	Toledo
Randall, E O,	Columbus
Ranney, Henry C,	Cleveland

Ramsey, Robert,	Cincinnati
Reagan, James P,	Napoleon
Rehm, Ernest,	Cincinnati
Rhodes, E H,	Toledo
Richards, Channing,	Cincinnati
Richie, Walter B,	Lima
Rickenbaugh, F W,	Toledo
Ricks, A J,	Cleveland
Riley, George B,	Cincinnati
Ritchie, J M,	Toledo
Ritchie, Edwards,	Cincinnati
Robinson, Nellie G,	"
Rohn, J K,	Tiffin
Russell, L A,	Cleveland
Sage, George R,	Lebanon
Sams, Oliver N,	Hillsboro
Sanderson, T W,	Youngstown
Sanford, Henry C,	Akron
Sapp, Dwight E,	Mt Vernon
Sayler, John R,	Cincinnati
*Scott, A W	Toledo
Scribner, C H,	Toledo
Scribner, Harvey,	"
Scroggs, C J,	Bucyrus
Scroggs, Jacob,	Bucyrus
Seiders, C A,	Paulding
Seney, Henry M	Kenton
Seward, C W,	Newark
Sewell, W L,	Mansfield
Shafer, M D	Findlay
Sharp, Amor,	Columbus
Shauck, John A,	Dayton
Shearer, C C,	Xenia
Sheets, J M,	Ottawa

* Deceased.

Sheppard, A J,	Zanesville
Shoup, Marcus,	Xenia
Shunk, C K,	Cincinnati
Smalley, Allen	Upper Sandusky
Smith, A L,	Toledo
Smith, Barton,	"
Smith, J M,	Lebanon
Smith, P C,	Circleville
Smith, Rufus B,	Cincinnati
Snook, W A,	Paulding
Southard, E B,	Toledo
Southard, F H,	Zanesville
Southard, J H,	Toledo
Spear, William Thomas,	Warren
Spiegel, F S,	Cincinnati
Spriggs, John M,	Dayton
Squire, Andrew,	Cleveland
Stearns, Arthur A,	"
Steel, S F,	Hillsboro
Stevens, Charles H,	Cincinnati
Stewart, Chase,	Springfield
Stewart, Gilbert H,	Columbus
Stilwell, A H,	Ashland
Stivers, Frank A,	Ripley
Stuart, Edwin W,	Akron
Stueve, C A,	Wapakoneta
Sullivan, John D,	Columbus
Sullivan, John J,	Warren
Sumner, Charles E,	Toledo
Swayne, F B,	"
Swayne, Noah H, Jr,	"
Talcott, W E,	Cleveland
Tafel, Gustave,	Cincinnati
Taft, Wm H,	"
Taylor, Henry C,	Columbus

Thatcher, Charles A,	Toledo
Thayer, A A,	Canton
*Thomas, A Z,	Ottawa
*Thomas, D E,	Toledo
Thompson, A C,	Portsmouth
*Thurman, Allen G,	Columbus
Thurston, Johnston,	Toledo
Tibbals, Newell D,	Akron
Tolerton, E W,	Toledo
Tracey, Thomas,	"
Treadway, Francis,	Cleveland
Troup, James O,	Bowling Green
Turner, Thomas F,	Canton
Tussing, L Benton,	Columbus
Tyler, Justin H,	Napoleon
Uhl, Harrison J,	Cleveland
Upson, Wm H,	Akron
Van Campen, H,	Toledo
Van Deman, John N,	Washington C H
Vickery, Jesse,	Bellevue
Volrath, Edward,	Bucyrus
Waight, J B,	Mt Vernon
Waite, Richard,	Toledo
Wald, Gustavus H,	Cincinnati
Wannamaker, R N,	Akron
Warrington, J W,	Cincinnati
Watson, David K,	Columbus
Watson, James,	"
Weirick, W J,	Loudenville
Welker, Martin,	Wooster
Werner, Gustav R,	Cincinnati
Werner, J,	Leipsic
West, William A,	Bellefontaine

* Deceased.

West, William H,	Bellefontaine
White, Henry C,	Cleveland
White, John G,	"
Wheeler, S S,	Lima
Wheeler, T W,	Toledo
Wightman, C D,	Medina
Wiggins, Willis H,	Chillicothe
Williams, M J,	Washington C H
Williamson, Samuel E,	Cleveland
Wildman, Samuel A,	Norwalk
Wilson, Charles G,	Toledo
Wilson, James P,	Youngstown
Wilson, Moses F,	Cincinnati
Winn, Simeon M,	Zanesville
Woolf, A J,	Youngstown
Wright, D Thew,	Cincinnati
Young, George R,	Dayton
Young, W E,	Akron
Zehring, Aug,	Cleveland
Zimmerman, John L,	Springfield

MEMBERS EX OFFICIO.

Hon. William H. Taft,	Cincinnati.
Hon. George R. Sage,	Lebanon.
Hon. Martin Welker,	Wooster.
Hon. Edward T. Bingham,	Washington, D. C.
Hon. A. J. Ricks,	Cleveland.
Hon. William W. Boynton,	Cleveland.
Hon. J. P. Bradbury,	Pomeroy.
Hon. J. F. Burket,	Findlay.
Hon. Franklin J. Dickman,	Cleveland.
Hon. John H. Doyle,	Toledo.
Hon. Martin D. Follett,	Marietta.
*Hon. William J. Gilmore,	Columbus.
Hon. Moses M. Granger,	Zanesville.
Hon. John McCauley,	Tiffin.
Hon. Charles D. Martin,	Lancaster.
Hon. T. A. Minshall,	Chillicothe.
Hon. George K. Nash,	Columbus.
Hon. Selwyn N. Owen,	Columbus.
Hon. John A. Shauck,	Dayton.
Hon. William Thomas Spear,	Warren.
*Hon. Allen G. Thurman,	Columbus.
Hon. William H. Upson,	Akron.
Hon. William H. West,	Bellefontaine.
Hon. M. J. Williams,	Washington C. H.
Hon. D. Thew Wright,	Cincinnati.

* Deceased.

The next Meeting of the Association will be held at the Hotel Victory, Put-in-Bay, commencing July 20th, 1897.

APPENDIXES.

[I]

ADDRESS BY HON. JOHN F. FOLLETT, SENIOR VICE PRESIDENT.

Gentlemen of the State Bar Association :

When I first learned, on the 20th day of June, by a communication received from our worthy Secretary, that in consequence of the serious illness of our most estimable member, John J. Hall, who, last year, was unanimously elected by you as President of this Association, and that I as Senior Vice President, would be expected to take his place and perform his duties at this annual meeting of the Association, I was deeply grieved, by the unwelcome intelligence, for three reasons:

First—The misfortune that had befallen our most worthy and estimable brother, whose manliness, integrity and ability, coupled with his interest in, and devotion to, this Association, naturally make him your preference over any other one for presiding officer, even though that other possess the qualifications to discharge the duties of this high position as well as he could, and I dare not hope to be able to satisfy you in this regard. His enforced absence from such a cause, his inability to be with us and exchange fraternal greetings, to join with us in social amenities, to aid us in our deliberations by his wisdom and experience, to discharge the duties of the high office so wisely and properly conferred upon him by you, cannot fail to make his sick bed more irksome and distressing.

Second—I can but appreciate and sympathize with your disappointment and chagrin, on coming to this annual meeting, to find one not selected by you for the place occupying the chair of presiding officer and your deep grief on learning the reason

therefor. I am not unmindful of the fact that when, at your annual meetings, you select your vice presidents, you justly regard the position, in the language of a distinguished statesman, one of "Innocuous desuetude," and that you select the persons to fill this office whom you consider most deserving of such an office. I am, therefore, a sincere mourner at this funeral of your fond and cherished anticipations, as you find that your Constitution has imposed upon you as presiding officer at this annual meeting, one whose fitness for such a duty was not considered at the time of his selection.

Third—There is nothing more disagreeable and unpleasant than to appear when and where another is expected, to take the place of that other and witness clearly written upon the face of every one before you, the evidences of sadness and disappointment, and hence I shrank from being subjected to such an ordeal.

If regrets deep and heartfelt, as the result of his absence from this meeting, can cheer and comfort his noble, generous heart, or if the assurance that we all miss him, greatly miss him, will cause a single ray of sunshine to penetrate the gloom of his sick chamber, that comfort and assurance we would give our noble President with one heart and voice. I know you all, with one accord, join me in the earnest, fervent prayer that "He, who tempers the wind to the shorn lamb," may ever dwell beside his bed of sickness, and that, at our next annual meeting, he may again be with us with his health and vigor fully restored.

THE JUDICIARY.

An honest, fearless, able, patriotic, uncorrupt and incorruptible judiciary is the best possible conservator of individual rights, of public order and safety, the surest preserver of the benefits and blessings of free institutions and constitutional government, and the most reliable protector of the weak and de-

fenseless against the agressions of the strong and the encroachments of the powerful. In the establishment and maintenance of such a judiciary, each member of society and every class in the community is interested, but none are so deeply interested as are the members of the bar. The business of the lawyer not only compels him to come into the closest relations with the judiciary, but all his professional acts are subject to its investigation and scrutiny. In all civilized countries, and especially in free governments like ours, the immense power necessarily conferred upon the judiciary, as the conservative and preservative department of the government, emphasizes the importance of the exercise of the highest wisdom in the selection of men fitted for a trust so sacred. None can realize more perfectly or feel more deeply than do members of the bar the great wrong done to society and to its individual members by wrong adjudications, by misconceptions of the law and improper application of legal principles by those who have, without proper qualifications, been vested with so high, important and sacred a trust as that of judge.

It is natural that we should feel chagrined and personally humiliated, when we go into court to present a case which we have carefully examined and which we know to be thoroughly on the line of well-settled principles of law, and settled by well-considered adjudications, and hear from one who has attained the position of judge, but is entirely innocent of any knowledge of the law, and burdened with none of the requisite qualifications for that high office, that we are mistaken and find ourselves unceremoniously turned out of court, carrying with us an overpowering sense of weakness and inability to protect the legal rights of our clients, or to enforce the legal liabilities of those against whom we have had the temerity to institute proceedings in court.

But as the judiciary is now selected, is it at all wonderful that men should reach that high position who are entirely unfitted for it? Our judges are necessarily partisans and, under the law

of Ohio as it now stands, no man's name can be placed upon a ticket other than a partisan ticket. The test of fitness applied is not what he may know of the principles of common or statutory law, or of the ablest and best considered adjudications, but how he stands upon the question of protection and free trade, or of 16 to 1 and its converse, or what his relations may be with the political "Boss," whose will is supreme, and who permits no man to have his name printed upon the ticket who will not do his bidding and obey his behests.

After a name has once been placed upon a partisan ticket as a candidate for judge, Sambo from the cotton fields of the South, Pat lately from the tenant's cabin in the Green Isle, Hans from the peasantry of Europe, have just as much voice in the selection as has the ablest lawyer of the State. Is it reasonable or natural to expect the judiciary to be fearless and independent when its selection is necessarily made by such methods?

In May, 1859, a political question of gravest importance was argued before the Supreme Court of Ohio, a question which at the time agitated the public mind more than any other, viz.: The relation of the States to the Federal Union, and the power of the general government to enforce its laws within the borders of a state hostile to such laws, and after the most patient hearing and conscientious investigation of the question at issue, a majority of the court believing that the law, though violative of their own convictions of right, was nevertheless properly and constitutionally enacted, and that it was the duty of the court to obey and enforce it, or at least not to obstruct its enforcement, mindful of the obligation taken when entering on the duties of that high office, to enforce the law without fear or favor, determined to so decide, and one of those judges, the then chief justice, on the morning he announced the opinion, said to his wife: "I am going to announce an opinion to-day that will remove me from the bench." That statement was literally true,

for partisan clamor has no regard for conscience, convictions of right and duty, or honesty in the performance of the obligations of a high and sacred trust."

No right-thinking man objects to a judge being a partisan when off the bench, and none such I think would claim that partisan zeal is a qualification for the bench. How much of evil and injustice has worked itself into and impressed itself upon the administration of the law in our courts through partisan agencies and instrumentalities I will not undertake to say, but that its effect has been felt seems to me to be apparent. And it is natural that this should be so while an aspirant for the bench is compelled to seek the assistance and gain the good graces of the ward bummers and the boys that run the political machine.

Actuated by the spirit of modern political ethics one, who reaches the bench by such a course, cannot forget to reciprocate the favors he has received should opportunity present itself. A judge is naturally and necessarily shorn of his strength to a greater or less degree when hampered by partisan affiliations and blinded by partisan obligations. I am sure that every honest lawyer and every patriotic citizen longs for the time to come when this, the most important part of our governmental system, may be occupied by men thoroughly learned in the law, fearless in its enforcement, and whose integrity shall be a sure guaranty that the interests and welfare of all coming into our courts shall be faithfully and certainly protected.

Cannot this Association devise some method by which a non-partisan judiciary can be secured and men best fitted for judicial stations elevated thereto?

In the general government we have drifted away from the idea that partisan fealty is a necessary qualification for office, and that too in relation to offices in the executive branch of the government, in which it might, with some reason, be considered a qualification, and I submit that, when applied to the judiciary, such partisan fealty should be entirely ignored.

Political questions when they reach our courts for determination are usually, if not invariably, the offspring of partisan zeal, and their determination should be entrusted to those entirely free of the spirit and influences out of which such questions arise. In my judgment the first duty of the Bar of Ohio should be to secure the highest and best type of judiciary obtainable, and that the efforts of the bar in this direction should be active, united and vigorous. Our clients, the business community, and the wise and prudent of all classes will concede that we are the best judges of the qualifications and fitness of those who aspire to the bench, and our influence in that regard, if wisely directed, should be paramount. We can but realize the great, perhaps insurmountable difficulty of adopting any method for the selection of the judiciary other than the elective, and hence the importance of our united efforts to make that method as efficient as possible.

There is not one of us who does not abhor the idea that politics or partisanship could enter into the discussion of a legal proposition in our courts, or in the determination of a legal question by our courts, and yet it is notorious that presumed political influence brings influential clients and large fees. Especially is this true with corporations having large political interests to be subserved and legal questions of doubtful validity to be solved. A lawyer whose partisan standing is such that he has only to indicate his will to be obeyed by the legislature and is presumed to be able to mould the actions of such courts, as he can make or unmake at his pleasure, as he sees fit, possesses a power fearful to contemplate in a free and enlightened community, and has a bonanza that would satisfy the greed of the most avaricious.

My brethren of the State Bar Association, is it not a duty that we owe to ourselves, to the communities in which we live and to the welfare and prosperity of the state of which we are so proud, to make and maintain as pure, strong and reliable a

judiciary as possible? Let us endeavor to keep the fountain so pure that unclean and contaminated water cannot flow therefrom.

As we contemplate many things passing and which recently have passed under observation we seem almost to have reached that ill-starred period so tersely described in the words:

> "Ill fares the land to hastening ills a prey,
> Where wealth accumulates and men decay."

The bar is the conservative force of the country and at no time in its history has the call upon the bar been louder or more importunate than at present, to stand by the great principles of the law and to wield its mighty influence in the preservation of human rights and human happiness and in the bestowment of the greatest good upon the greatest number.

Considering the mode we have adopted for filling judicial positions, and the compensation paid the judiciary in this state, the wonder is not that imperfections exist, but rather that we have been able to maintain as high a standard in our judicial system as we have done.

At each annual meeting of this Association remedies have been suggested, some of which have assumed the form of law, but others which are of the greatest importance have not been adopted by the Legislature. I shall not trouble you with the consideration of questions that have often been discussed in these meetings, affecting the improvement of our judicial system, but I desire to call attention to one or two matters that I deem of great importance.

THE CIRCUIT COURT.

First—Our Circuit Courts consist of three judges, elected by the qualified electors of the respective circuits, each for a term of six years, but no provision whatever is made to supply the place of a judge elected in case of either temporary or permanent disability. It is the right of every suitor in the Circuit Court to

have his case tried by three judges, and he is not compelled to submit it to any less number. The concurrence of two judges is necessary to the decision of a case. A judge once elected to that court, though incapacitated for the performance of the duties of his position, seldom, if ever, resigns his office, and the court is practically disabled for the performance of its duties.

In some of the Circuit Courts of this state this has become a serious evil, and the administration of justice has been seriously impeded. These courts with all the judges on the bench and all their time occupied find it difficult, if not impossible, to keep up with their dockets, and when the disability of one amounts practically to the disorganization of the court, this fact suggests the absolute necessity of making provision for supplying the place of any disabled judge in that court.

I suggest that this might be done by authorizing either the Governor, or the judges of the Supreme Court, to designate some judge of the Court of Common Pleas within the circuit to sit in the Circuit Court, in place of a disabled judge of that court, during such disability, or the remaining judges of the Circuit Court be authorized to select some common pleas judge, within the circuit, to sit with them whenever any one of their number is unable so to do. Such authority should, of course, be so guarded that no judge of the Court of Common Pleas should be permitted to review any decision rendered by him in the court below.

The general term of the Superior Court of Cincinnati is now constituted of two judges of that court who have not passed upon the question arising in general term, at special term, and one judge of the Court of Common Pleas of Hamilton county.

If that court can be so constituted, I can see no reason why the Circuit Court cannot be kept, at all times, so organized as to transact business, instead of becoming disorganized with business rapidly accumulating, to the great detriment of the public, and especially of litigating parties.

It is said that a judge, who from any cause becomes disabled for the performance of the duties of his position, should resign, and especially if that disability is likely to be protracted to such an extent as to seriously interfere with the efficiency of the court. This, however, is a question for the judge alone to decide, and in many, perhaps most cases, would be decided in his own favor, without special regard to public interests or the interests of litigants, and in many cases the salary of the office and the necessity of its receipt by the judge might determine the decision. The public welfare would be greatly subserved, in case of partial disability, by paying him his salary and also compensating some one taking his place and performing his duties, and in case of total disability, by having the office declared vacant on account of such disability, and paying him his salary to the end of his term.

While it is true that judges of our Circuit Court may sit in circuits outside of that in which they were elected in certain cases, it cannot be expected that the places of one or two judges of a circuit court can be thus supplied for any considerable length of time, as to do so would be to practically disorganize the court in the circuit from which such judges are sent.

Coming as I do from a circuit whose Circuit Court has suffered seriously during the last two or three years in consequence of the illness and physical disability of its judges, and realizing as I do how seriously the business of the court has been retarded and made to suffer, I urge upon this Association to suggest some measure of relief and to exercise its energy and influence in securing a remedy.

THE SUPREME COURT.

Second—The State of Ohio has the hardest-worked and poorest-paid judges of her Supreme Court of any state in the Union.

This fact, though it should not, does seriously detract from the character and standing of that court. We are fond of boasting of the high standing and character, in political and military life, of the Ohio man, and we speak exultingly of the great names of men from Ohio that have adorned the list of judges of the Supreme Court of the United States, and we congratulate ourselves upon having been able to secure the services of such men as have sat as judges, and are now occupying the position of members of the Supreme Court of Ohio, but our pride meets a terrible rebuke when we are asked the question: "What do you pay such men for their services?" The office is a great office—more important than any other in the state. For a man to be fitted for that office requires at least ten years' of constant, active, vigilant training to become a member of the bar, and at least ten years more of practice of the law after admission to the bar, in which he receives but small remuneration, thus reaching the period of full maturity when he should reap the fruits of labors well bestowed, and yet one who enters upon the duties of an office so great and exacting, finds a salary awaiting him of four thousand dollars a year—less than that received by a large proportion of our county officials and probate judges, and less than the amount necessary to enable him to support a family and procure anything but the bare necessities of life. No citizen of Ohio should complain or find fault with our Supreme Court under such conditions.

I would gladly, if I could, incorporate in our Bill of Rights, the 29th Article of the Declaration of Rights of the Commonwealth of Massachusetts, which is as follows:

"It is essential to the preservation of the rights of every individual, his life, liberty, property and character, that there be an impartial interpretation of the laws, and administration of justice. It is the right of every citizen to be tried by judges as free, impartial and independent as the lot of humanity will admit. It is, therefore, not only the best policy, but for the security of the

rights of the people, and of every citizen, that the judges of the Supreme Judicial Court should hold their offices as long as they behave themselves well, and that they should have honorable salaries ascertained and established by standing laws."

The sentiment thus expressed, if adopted by the people of the State of Ohio, and carried into effect, would not only lighten the burdens and relieve from anxiety the judges of our Supreme Court, but would be tenfold compensative to the people in the efficiency of that court.

No state in the Union can be more justly proud of her Supreme Court for the great learning and ability of its members and for the correctness and legal profundity of its opinions than the State of Massachusetts. With only about three-fifths the population of Ohio, the State of Massachusetts has seven judges of the Supreme Court, who are appointed during good behavior and receive salaries of $6,000 each, except the chief justice, whose salary is $6,500, and are each allowed $500 annually for traveling expenses. They are not required to bow the knee to the political boss, nor pay campaign assessments to obtain their seats, and, once obtained, they are not required to do the bidding of any one in order to retain their positions.

We may never be able to depart from the elective system in the selection of our judges of the Supreme Court, but we ought to be able to greatly improve upon that system as it now exists in this state.

The Supreme Court of Pennsylvania consists of seven judges, each elected for the term of twenty-one years. The salary of these judges is $8,000 each a year, except the chief justice, whose salary is $8,500. By an act of the Legislature of Pennsylvania, passed May 26, 1891, each of the supreme judges is authorized to employ a stenographer and typewriter at an expense not exceeding $1,000 a year.

The Court of Appeals of New York consists of seven judges elected for the term of fourteen years, each of whom receives a

salary of $12,000, except the chief justice, whose salary is $12,500.

Indeed, I know of no state whose judges of the Supreme Court are paid so paltry and miserable a salary as is paid to the judges of the Supreme Court of Ohio. Over the portals of our Supreme Court should be written: "This way to the poor-house." The history of a number of men who have been members of that court, and who for years devoted their distinguished abilities and energies to the services of the people of this state, is a sad commentary on the sense of justice of our people. Brinkerhoff, Scott, Welch, White and others not only gave their services to the state, but all of wealth they had when they entered upon their terms of service and died substantially in poverty.

To secure the best services from members of the Supreme Court they should be paid such salaries as would relieve them from care and anxiety in relation to the matter of support for themselves and families, and also enable them to sustain a suitable and fitting position in the social world. I am aware that at each effort that has been made to increase the salaries of the judges of our Supreme Court, the argument against it has been that there is no difficulty in finding men to occupy the position at the present salary. It is a matter of astonishment that men could be found such as have occupied that high position at such a salary. But what higher goal presents itself to the ambitious lawyer than the supreme bench! And many excellent and worthy men are ready to sacrifice ease and comfort and subsist on the bare necessities of life, in order to gratify an ambition so noble and meritorious.

But, does this fact at all lessen the obligation resting upon the state, to properly compensate its judiciary, as well as its other officials? Is not the laborer worthy of his hire, even though he is a judge of the Supreme Court? We boast of our common school system and of the amount of money expended each year

in the education of our youth. We boast of our charities and of our charitable institutions and of the care we take of the unfortunate, the needy and the dependent, but no rule of ethics is better settled than that we should be just before we are generous.

We criticise the judges of our Supreme Court and complain of the vexatious delay in the administration of the law in that court, as though the judges of that court were not earning the money they receive, and were not rendering a "quid pro quo." But I assert, without fear of contradiction on the part of any intelligent citizen, that no one in this state is so poorly paid for the services he renders as is a judge of our Supreme Court. Every well equipped lawyer's office in this state is now provided with a stenographer and typewriter, and every lawyer knows the great assistance he thus receives in the prosecution of his business and in expediting his work. As yet, however, no stenographer or typewriter has been furnished our Supreme Court, and each judge is obliged to perform the manual labor of writing his own opinions. There should be furnished to that court at least two good stenographers and typewriters to take down oral arguments, when oral arguments are made, and to reduce to writing the opinions of the judges. How much assistance of this kind would aid the court in facilitating and expediting its business every lawyer knows, and why the miserable, picayune policy of this state, in relation to that court, should not long since have given place to the furnishing of that court with proper facilities for the transaction of its business, has been to me an unsolved mystery. Every lawyer knows that with the assistance of a stenographer he can accomplish twice as much work in a given time as he could without one, and that the expense of such assistance when incurred is greatly to his profit. The salary of a judge, even upon the miserable basis fixed in this state, is far greater than that of a stenographer or typewriter, and, considered from the view of economy, such assistance should

be liberally furnished to our Supreme Court. We ought to do as is now done in Pennsylvania, furnish a stenographer and typewriter for each of the judges, or permit each of the judges to furnish his own at such an expense as would secure a competent person.

The Supreme Court of no state remains longer in session, and the judges of none labor more assiduously and faithfully than our own, and state pride should stir each one of us to do our utmost to place that court in such a position and upon such a basis that we could without shame refer to our method of selecting judges and compensating them for their services, as well as the means provided for facilitating their work.

It may seem strange to some of our people, but the fact is that a judge of our Supreme Court, after reaching that exalted position still retains the tastes and characteristics, the wants and desires, of men in other stations of life, and to him it must be humiliating to know that the state fails and refuses to furnish him the means for the gratification of even the commonest social tastes and inclinations. The exactions made upon men in high position are usually in proportion to their position, and it is but the dictate of common sense, and the prompting of a reasonable and ordinary regard for justness and fairness, that when the people call a man to serve in an exalted position, he should receive such compensation as would enable him to serve them in such a way as all right minded people would say was proper.

Not long since I was told by a lawyer that he met one of the justices of our Supreme Court and introduced him as a judge to his son. After separating from the judge, his son inquired: "did you call him judge? What is he judge of?" The lawer replied: "Of the Supreme Court of Ohio." The son said: "I am surprised. I thought from his dress and personal appearance he must be a farmer." The lawyer replied: "He is a judge of the Supreme Court of Ohio and an excellent judge, but the people of

Ohio only pay him farmer's wages, and he is therefore compelled to live and dress like a farmer."

It seems almost like one of the travesties of fate, that the members of the highest court, vested with the power of determining the rights and fixing the destinies of those that come before them, in many cases listen to arguments made by lawyers, who receive a larger compensation for making the argument than any one of the judges to whom it is addressed receives for an entire year's hard, laborious services.

Let it be our special mission to labor unceasingly until this blot upon the otherwise fair name and fame of our great state has been forever eradicated. Let us strive in the first place to furnish to our Supreme Court the proper aid and facilities for the transaction of its business, and, in the second place, proper compensation for the services required and received.

We should also, so long as judges are selected by the elective system, labor to procure a longer term, I should say at least twice the length of the term now provided, and if possible divorce the office from any connection with partisan methods and political bosses.

I know the prejudice existing in the rural mind against the bench and bar, but I know also that the bench and the bar are the great conservative force of the country, and if free institutions, the government of the people and the public safety and welfare are to be preserved and perpetuated, the bench and the bar, as co-operating forces, are a supreme necessity for that purpose.

No occupation brings a man in as close touch and intimate relations with society and human life, in all its relations and phases, as does that of a lawyer, and no man can understand the needs and necessities of his fellow beings so well as he. A judge necessarily having undergone the education and training of a lawyer to fit him for his high position is best fitted to determine the controversies and solve the problems of human life. To dis-

charge the high duties of his office properly he should be relieved of personal cares and anxieties and supplied with the requisite means to properly discharge the duties he owes to his family and to society. His position and surroundings upon the bench should be such that he could feel that after spending the noon time of his life and the declining period of the day in listening to the presentation of the different phases of human controversies, and in investigating and determining them, the evening of his life will fade away into that calmness and grandeur which should be the necessary sequence of a life well spent and duties faithfully and conscientiously performed.

In other words, he should be placed in such a position as to realize the ideal life of the lawyer and judge so beautifully expressed by the greatest of commentators on the law in his poem entitled, "The Lawyer's Farewell to His Muse":

> "Then welcome business, welcome strife,
> Welcome the cares, the thorns of life,
> The visage wan, the pore-blind sight,
> The toil by day, the lamp at night,
> The tedious forms, the welcome prate,
> The pert disputes, the dull debate,
> The drowsy bench, the babbling Hall,
> For thee, fair Justice, welcome all!
> Thus though my noon of life be passed,
> Yet let my setting sun, at last,
> Find out the still, the rural cell,
> Where sage retirement loves to dwell!
> There let me taste the homeful bliss
> Of innocence and inward peace;
> Untainted by the guilty bribe,
> Uncursed amid the Harpy tribe;
> No orphan's cry to wound my ear;
> My honor, and my conscience clear;
> Thus may I calmly meet my end,
> Thus to the grave in peace descend."

[II]

LIFE AND CHARACTER OF HON. ALLEN G. THURMAN.

ADDRESS OF HON. GEO. K. NASH, BEFORE THE OHIO STATE BAR ASSOCIATION, PUT-IN-BAY, JULY 16TH.

Mr. President and Gentlemen:

In the closing month of last year, at his beautiful and peaceful home in Columbus, O., the sun of life of an old man, more than eighty years of age, went down. He had belonged to our profession. He had been a judge of the Supreme Court of our state. For twelve years he had served this commonwealth and his fellow-citizens, everywhere, in the Senate of the United States. Seven years before his death, five and one-half million of the electors of this great nation had esteemed him so hightly that he was their choice for the second office in the Republic. Above all, he died with the universal respect and esteem of his countrymen, and the sincere love of all who had the honor of knowing him. The people of the entire country were mourners at his bier, but the most sincere of them all were his neighbors, the most of them without station or fame, among whom he had lived for many years, and before whom his life had been an open book.

The career of this man challenges our attention. From whence did he come? What did he accomplish? What were his characteristics?

He was the product of our sturdy pioneer life and of our American civilization. Allen G. Thurman was born November 13, 1813, in Lynchburg, Virginia. His father was a minister of the Methodist church. His mother was a daughter of Colonel

Nathaniel Allen, a nephew and an adopted son of Joseph Hewes, one of the signers of the Declaration of Independence. The family were poor from the fact that one of Allen's grandfathers, imbued with the spirit of freedom and humanity, had liberated his slaves. When he was but six years of age, his parents crossed the James river, wandered over the mountains which separated civilization from the then unknown West, and founded their home in Chillicothe, O. Young Thurman's boyhood days were not filled with hours of ease and pleasure. His facilities for an education were only such as were afforded by the new, struggling pioneer city, whose academy was his *alma mater.* Fortunately, his mother was a woman of much character, of studious habits, had received a liberal education, and for her son had such love that after discharging the onerous duties of the household, she devoted many weary hours in directing his culture and education. After this son had become famed for his learning and ability, he paid this tribute to that faithful woman: "I owe more to my mother than to any other instructor in the world."

Some of Thurman's associates in the Chillicothe Academy seemed to be more fortunate than he. From its doors they departed to secure collegiate educations, while he was left behind to receive such education as he could by hard work, from well-selected books, under the directing mind of his mother. It is related that when his companions mounted the stage and went away to college, he was seized almost with despair. The youth sought the old Presbyterian burying ground, and, throwing himself upon an old-fashioned flat tombstone, wept. The good sense which ever characterized his life, soon brought the thought that his tears were idle and vain. He told his sorrows to a friend who chanced to be wandering among the graves, and closed the recital with the determined remark: "If my school fellows come home and have learned more than I have, they must work for it." In the acquisition of solid learning, his academy fellows never got

in advance of him. He studied, not only long after they had graduated, but during his entire life. To his mother, young Thurman was ever a true and dutiful son. A goodly portion of his earnings for many years after he became a member of the bar, was devoted to her support, and to that of his sisters.

From what he owed to his mother, it is easy to pass to the influence which another good woman exercised over his life. When more than thirty years old he was married to Mary Dun, the daughter of a well-known Kentucky family. A better and more benevolent woman never lived. Whenever sorrow cast its shadow upon the door of a neighbor, her kind sympathy was soon present to assist in binding up the bleeding hearts and alleviating the pain. She was a model wife and mother, and to the last day of her life, her chief pleasure was to care for the welfare and happiness of her husband. In their old age, the conduct of Judge and Mrs. Thurman towards each other was like that of lovers, whose affection had broadened and strengthened as the years rolled on. Mrs. Thurman always addressed her husband as "Allen," and Judge Thurman never referred to his wife by any other name than "Mary," and this beautiful name never sounded half so sweet as it did when it fell from his lips with such pathos and affection.

God only knows how much Judge Thurman, and his country, owe to these two good women. One watched over his cradle and guided the early years of his life. The other shared in his sorrows, his disappointments and his great honors. When old age came, she was spared until nearly the close. When she passed away, and he was left almost alone in his library, and with the books he loved so well, her sweet memory was ever present to cheer the lonely old man. By this last remark, I do not wish to be misunderstood. To the end, Judge Thurman was surrounded by his son and his good wife, and by his grandchildren. Their very

great affection suggested many things by which they gave him very great happiness, and of them all he was very fond.

When Thurman first reached Chillicothe, and for many years thereafter, the little town had many distinguished citizens, who must have attracted the attention and admiration of the boy and young man.

There was Edward Tiffin, a native of Virginia, who manumitted his slaves and came to Ohio in 1796. He was our first Governor, serving from 1803 until 1807. Afterwards he became a senator of the United States, and died in 1829. Governor Tiffin was very popular on account of genial temperament, high professional and general culture, and above all, high moral purpose and character. In a letter to Governor St. Clair, General Washington spoke of "Dr. Tiffin's fairness of character in private and public life, together with knowledge of law, resulting from close application for a considerable time."

There was also another Virginian, Thomas Worthington, who brought his slaves with him to Ohio, and here gave them their freedom. He was one of the first senators in Congress from the new state, and then became one of Ohio's Governors. It is said of him that he was "a man of ardent temperament, of energy of mind, of correct habits of life," and that "he soon became distinguished both in business and in political stations." He was one of the friends of all the liberal and wise measures of policy which were the foundation of Ohio's great prosperity. He died in 1827.

Again, there was General Duncan McArthur, a native of New York, an energetic and daring soldier, who did efficient service during the war of 1812, in leading the pioneers in their efforts to protect the frontiers from the attacks of the British and their savage allies. He became Governor of this state in 1830.

With Tiffin and Worthington from Virginia, there came another remarkable man, Robert Lucas, who settled in a county

adjoining Ross. He was the son of a soldier of the Revolutionary war. In the war of 1812 he reached the rank of lieutenant colonel in the United States army, which position he resigned that he might take command of a brigade of Ohio militia, and he did considerable service at Fort Meigs and Lower Sandusky. In 1832 he was chairman of the convention which nominated Andrew Jackson for President. In the same year he was elected Governor of Ohio, and young Thurman served as his private secretary.

It does not require a heavy draft upon imagination to enable us to believe that the example, the lives and the success of these men did much to inspire the ambition of Thurman, and to cause him to endure the labor, necessary for the development of the man, whom all our countrymen admired and honored in his mature years. After all, it is probable, that the circumstances which surrounded his boyhood and young manhood, constituted the best possible school for the development of his sturdy and high virtues.

It is somewhat remarkable, considering the adverse circumstances which surrounded Mr. Thurman, that he was prepared for and was admitted to the bar when he was not yet twenty-two years of age. His study of the law was pursued for a time with his uncle, William Allen, afterward a senator of the United States and a Governor of Ohio, and later with Noah H. Swayne, who then resided in Columbus, but afterwards became a justice of the Supreme Court of the United States. He continued to practice law in Chillicothe until 1851, when he was elected as a judge of the Supreme Court of Ohio under the new constitution of the state. During these years he was very successful, and was employed in almost every litigated case in Ross county.

In October, 1844, he was elected by the Democrats to Congress in a district in which the Whigs had formerly had a majority, and he took his seat and entered upon the active discharge

of the duties of his office in December, 1845. During his term of service, the country was engaged in a war with Mexico, and Mr. Thurman was an active supporter of the administration, and cheerfully voted for all appropriations which were necessary for its success. During this congress quite a controversy sprang up as to whether slavery should be admitted into the future to be acquired territories of the United States. Mr. Thurman opposed any interference with the "Missouri Compromise," which had then been agreed upon, but he favored and voted, together with nearly all the Democratic and Whig members of the House from the North, for the Wilmot proviso. For this action Mr. Thurman and the other representatives from the North were severely criticised by the members from the South. On the 15th of January, 1847, Mr. Thurman made a speech in the House of Representatives in reply to these criticisms. He was then but thirty-two years of age, and yet that speech was characterized by all the force and clearness and accuracy of statement, which caused the speeches of his after life to be so much admired. As proof of what I have stated, I quote the closing paragraphs of his address:

"Why, then, does the North insist upon opposing the extension of slave territory? I answer:

"Because, first, as the municipal legislature of the territories, it is the duty of Congress to promote their interests. The people of the free states think, whether erroneously or not, that it is for the interest of any country that slavery be prohibited, and thinking so, we as the legislative power over the territories, deem it our duty, where it can be done without too great a sacrifice, to exclude slavery from them."

"Another reason: That Congress is the national legislature, and therefore must look to the national interest; and as the strength and prosperity of the nation is composed of the strength and prosperity of its parts, it is the duty of Congress, no insuperable obstacle standing in the way, to pursue such a course of

policy as shall strengthen in the greatest degree the United States; and believing that free territory would be more populous, wealthy, abundant in resources, and in everything that makes great a nation, it is for the national interest to have as much free territory as possible, compatible with the existence of the Union."

"The third reason is, that in the opinion of the North, it is inconsistent with the genius of our institutions, and injurious to the character of the United States, to extend slavery. Where it exists, let it exist, says the north, but do not extend it by the action of the general government, and convert what is now free, into slave territory."

At the close of his first term, Mr. Thurman was offered a renomination, but this he declined in the following words: "In consequence of my election, I have been absent from my home for nearly eight months, during which I have been able to give scarcely a thought to my private and professional business. That business now requires my immediate attention, an attention I should be unable to bestow on it were the duties and responsibilities of a candidate again devolved upon me. For, I hold that it is the duty of a candidate to be the hardest working man of his party, and to merit, by his undivided energy and industry, the confidence reposed in him by his friends. This it would be impossible for me, under present circumstances, to do." This was certainly a very proper and high view to take of the duty of one who becomes a candidate for office at the solicitation of his party and his friends.

Judge Thurman retired from the Supreme Court of Ohio in February, 1856, and thereupon fixed his home in Columbus, and opened an office for the practice of law. It is but just to say that the members of the first Supreme Court under our new constitution were characterized by great ability and learning. Judge Thurman was certainly the peer of his associates, and this service gave him a great reputation as a lawyer.

During the War of the Rebellion, owing to the fierce passions of partisans, Judge Thurman's position was not correctly understood, and during that time some unjust and cruel things were said about him. In later and calmer years full justice was done him, and his countrymen came to believe that he was never other than a true and loyal son of the Republic. His position during those trying years was tersely defined in a letter to a friend:

"I did all I could to help preserve the Union without a war, but after it began I thought there was but one thing to do, and that was to fight it out. I therefore sustained all constitutional measures that tended, in my judgment, to put down the rebellion. I never believed in the doctrine of secession."

He did not again enter upon active political life as a candidate until the year 1867, when he was nominated by the Democratic party as a candidate for Governor of Ohio. His opponent was Rutherford B. Hayes, who afterwards became President of the United States. Judge Thurman carried on a campaign of great activity, making speeches in nearly every county of the state, and also showed great skill in his management of the campaign. He was defeated by a plurality of only 2,800 in a state which the Republicans had carried at the previous election by over 40,000 majority.

What seemed to be a political reverse was in reality a victory for Judge Thurman. The canvass had resulted in the election by the Democrats of a majority of the members of the General Assembly. It was the duty of this legislature to elect a senator of the United States, to succeed Benjamin F. Wade. Judge Thurman was preferred by his party friends over Clement L. Vallandigham, and thus was opened for him a career of twelve years' duration in the greatest legislative body in the world. During all this service Judge Thurman was a member of the judiciary committee, as he was also in his younger years in the Twenty-ninth

Congress, and a portion of the time he was its chairman. He won a reputation for judicial fairness and readiness, dignity and power in debate, especially upon all questions of constitutional law. He there met Roscoe Conkling, the great senator from New York, and they frequently measured swords in hot political debate. Notwithstanding this, each had for the other the highest respect and esteem. During a long legal argument, this senator repeatedly turned to Judge Thurman, and seemed to address his remarks to him alone. This performance was not agreeable to Judge Thurman, and feeling that Mr. Conkling was giving him too much attention, he asked somewhat excitedly and in an angry tone, "Does the senator from New York expect me to answer him every time he turns to me?" On the part of Mr. Conkling there was a momentary hesitation, and the people in the galleries, which were crowded, expected a scene. They were disappointed. Mr. Conkling, with the greatest courtesy replied, "When I speak of the law, I turn to the senator from Ohio as the Mussulman turns towards Mecca. I turn to him as I do to the English common law, as the world's most copious fountain of human jurisprudence." This graceful compliment caused vigorous applause in the galleries. The anger of Judge Thurman was turned away, and he walked over to the Republican side of the chamber and shook hands with his opponent. The applause broke out afresh.

While a senator, Judge Thurman exercised a very influential part in shaping the legislation of that important period. Possibly the most valued work which he accomplished was an act to compel the Pacific railroad corporations to fulfill their obligations to the government, which since has been known as the "Thurman Act," and the passage of which he forced in spite of the combined influence of those companies. In this great work he was aided by his personal friend, Senator Edmunds, of Vermont.

I cannot better describe the esteem in which Judge Thurman was held in the Senate by those of opposite political views, as well

as by his partisan associates, than by quoting the words of James G. Blaine. He wrote: "Mr. Thurman's rank in the Senate was established from the day he took his seat, and was never lowered during the period of his service. He was an admirably disciplined debater, fair in the method of his statement, logical in his argument, honest in his conclusions. He had no tricks in discussion, no catch phrases to secure attention, but was always direct and manly. His retirement from the Senate was a serious loss to his party--a loss indeed to the body."

In November, 1872, the Democratic party met with a terrible defeat, and many of its supporters were discouraged, disheartened and disgusted. Many of its friends reached the conclusion that its usefulness was ended, and that some new party should be built upon its ruins. In Ohio in 1873, the movement took definite shape and a number of leaders met, formulated their purpose to declare the party dead, and to announce its successor. They soon discovered that the help of Senator Thurman, who had not been consulted, was necessary to give them an indorsement to the party at large. A committee was sent to interview the Senator. He received them in his small and unpretentious office, heard them in silence, sat for a moment in deep reflection, and, suddenly turning upon his visitors, said: "Gentlemen, this room is too d—d small to break up the Democratic party in." The force of the expression may be excused because of its effect. The delegation withdrew, launched their party, but it lacked the support which Thurman could have given it, and it soon became one of the vanished things of American political history. In that year the Democratic candidate for Governor of Ohio was elected, and Mr. Thurman was returned to the Senate.

In political life Judge Thurman was always an intense partisan, and yet to his political opponents he was always generous, courteous and just, and never resorted to anything but fair and lawful means to accomplish his purposes. Two men could not

possibly be further apart in their political views, and more antagonistic to each other in this sense, than were Judge Thurman and the late Senator Oliver P. Morton, of Indiana, and yet, I have never heard warmer words of friendship and admiration fall from the lips of one man about another, than those which I have heard Thurman speak in regard to Morton.

In the Democratic National Conventions for 1876, 1880 and 1884, Judge Thurman was honored by being mentioned and voted for as a candidate for President. He was not made the nominee, and I am sure that neither Convention best served the country in rejecting his candidacy. In 1888 he was the nominee of the Democratic party for Vice President, on the ticket with Grover Cleveland. Although seventy-five years of age, he did much active campaign work, making speeches, which delighted his partisans, not only in Ohio, but also in the West and in the East. He was defeated, together with his party, and this was his last political work.

Judge Thurman tried his last cause before a jury in the winter and early spring of 1888. It was long drawn out, and lasted for a period of nine weeks. Election frauds had been committed in Franklin county by the changing of figures in tally sheets, so as to make it appear that certain candidates had been elected, when in fact they had been defeated. For this crime certain men had been indicted. The accused were members of Judge Thurman's party, but his abhorrence of the crime was so great and his belief that upon the punishment of such crimes, the existence and life of the Republic depended, was so strong that he did not hesitate to accept employment by the state. His old age and bodily infirmities might well have excused him, but these he did not plead. Day after day, and week after week, while suffering great bodily pain from rheumatism, he was constantly at his post in the court room. Never in all his life did he show more ability and skill in the management of a cause.

During the trial and in the final presentation to the jury, the skillful attorneys for the defendants seemed to seek to impress on the jury, on which there were many Democrats, the idea that the Democratic party was being attacked and was on trial. This he resented with great vigor in the following language:

"Nay, gentlemen, it is simply nonsense to say that. Mr. C. has explained the whole thing himself when he said there are bad men in every party. So there are. There are bad men in the Democratic party, bad men in the Republican party, and I should not be surprised if there are bad men even in the Prohibition party. If there is any party that has no bad men in it, it must be the Woman's Rights party. I cannot conceive of any other. If there are bad men in any party who commit a crime, is the party to be accountabe for it? If a member of one of your churches in this city cheats his neighbor in a horse trade, is the whole church to do penance for that? If a man in your political party commits a crime, are you to go and seek absolution from that sin? I will tell you when a party does become responsible. When a crime is committed by a member or members of a party and that party, instead of setting their faces like flint against the perpetrator of crime, seek to shield him, they take the responsibility on their own shoulders."

I shall never forget the closing words of that powerful argument as they fell from the lips of the venerable lawyer. They seemed to express the last best wish he could utter for the great party, which he had loved during all his life and which had greatly honored him. They were these:

"But I do want this party, to which I have belonged now more than sixty years, for I began when I was a child; this party which has done so much for me, and which I have conscientiously believed in; which has its faults, as all parties have had their faults; which has been wrong sometimes, as all parties have been wrong; but in which I have believed, to which my faith has been

pledged and has been kept—I do want that party, in the going down of the sun of my life, when I shall look for the last time abroad on the earth—I do want to see that party still standing, still respected, still honored and still deserving the good will and kindness and support of all my fellow-beings."

This was the thought, the aspiration of a true lover of his country and of a statesman who had her well being at heart. In a country like ours, great parties are a necessity. Only by such organizations can the people act effectively and make their will known. Upon their honesty and integrity depends the welfare of the Republic. What better guarantee can a man have in his dying hour for the future usefulness and happiness of his country, than to see his party still standing, still respected, still honored and still deserving the good will and kindness and support of all his fellow-beings?

To sum up the characteristics of Judge Thurman: He was a man of great bodily strength and vigor. He was endowed by nature with a keen, active and comprehensive brain, and this had been broadened and strengthened by constant and long-continued study. He was always a student. He was one of the most thorough scholars in public life. He was a great lawyer and also as great a judge. He was a statesman, who ever had his country's true interests at heart, and who never permitted his country's honor, or his own, to be tarnished by any act of his. The brightest gem in his crown was unswerving and unyielding honesty in public and private life. His proudest boast, and the only one he was ever heard to make, was:

"I never, in all my life, knowingly, wronged a human being, of a dollar."

[III]

THE CONSTITUTION OF THE UNITED STATES—THE BEST PRODUCT OF POLITICAL SCIENCE FOR THE SECURITY TO MAN.

By John Randolph Tucker, LL. D.,

Professor Constitutional Law, Washington and Lee University, Virginia.

Mr. President and Gentlemen of the Ohio State Bar Association:

In undertaking the honorable duty devolved upon me by your invitation, I feel an unfeigned diffidence lest I shall not meet your just expectations, or realize my own anxious wish to say something worthy of the occasion.

The Federal Constitution—the bond of our Union—as the best product of political science for the liberty of men, has been selected as a theme for discussion, which should be of vital interest to all who love our common country and our free institutions.

Man and the government—personal right and political power; these relations are a universal fact in history—but why and how to be related is a question, whose solution on philosophic principles is still the problem of the future.

Great progress has been made in reaching a solution in the century which has produced the American system of government; but still all feel the solution is involved in perplexing doubt as to the true scientific basis for political institutions. If I may aid in

helping this thoughtful band of lawyers in their efforts in this direction, I shall have accomplished all I dare hope for. Pardon the boldness of my attempt, which is honestly made, in the hope that the good of our Federal system may be secured, and its evils be avoided, by the people of these United States, in the interest of our common Union, and of the liberty of the individual men living under it.

The legitimacy of all government known in history, prior to our own, may be affirmed to rest upon prescription, and not on consent. Not a throne on earth rests on a people's consent. Its prescriptive title may be assured from revolution by more or less of popular acquiescence; but consent is wanting. The people were born under the existing system, and "bear the ills they have rather than fly to others, that they know not of." The primal society was the family—the primal government the patria potestas, which enlarged into the patriarchy, and then by the union of those of common origin, into the nation (Nascor, Natus). Children born under it assumed its legitimacy, acquiesced at maturity, and thus it was transmitted from generation to generation, on the prescriptive idea, that what is and has been for successive ages, must be right, and must have started with real title. If some bold thinker questions the title, his question is either suppressed in the bud, or is punished as treason.

Men ask, "Why make the change? What better can you get?" Perhaps you may make it worse. "There's the respect which makes calamity of such long life." Mankind shrinks from revolution as from suicide. The prescription of existent power is acquiesced in by millions, who are either too ignorant to comprehend their rights, or too tame to resist the wrongs of power, or too wise to risk a change, unless present evils be intolerable, or the prospect of betterment is well assured. These suggestions will suffice with this thoughtful audience to account for the peaceful and even contented submission of the subjects of the Czar, or

an Emperor, to a rule, which an American citizen would not tolerate for a moment. The Anglo-American race have boldly challenged prescription, and laid as the foundation of all their political power the consent of the people.

Force and compulsion, as a means of upholding government are condemned in the nervous language of the Declaration of Independence, which is expressive of fundamental principles in American political science, and is here repeated.

"We hold these truths to be self-evident; that all men are created equal; that they are endowed by their Creator with certain inherent and inalienable rights; that among these are life, liberty and the pursuit of happiness; that to secure these rights, governments are instituted among men, deriving their just powers from the consent of the governed; that whenever any form of government becomes destructive of these ends, it is the right of the people to alter or to abolish it, and to institute new government, laying its foundation on such principles and organizing its powers in such form as to them shall seem most likely to effect their safety and happiness. Prudence, indeed, will dictate that governments, long established, should not be changed for light and transient causes; and accordingly, all experience hath shown, that mankind are more disposed to suffer, while evils are sufferable, than to right themselves by abolishing the forms to which they are accustomed."

The teachings of the school of Filmer, in his Patriarcha, written under the influence of the House of Stuart, were based on the idea that the primal government for man was the pater familias, or the patriarch, from whom, by divine right of succession, all monarchs took title, and thus he deduced the just divinum Regum, against whose authority to rebel was treason to the King, as well as to God.

The teachings of Locke, Sidney, and our revolutionary fathers, were that the individual man was divinely endowed with the

right to life, liberty and the pursuit of happiness; that these are inherent and inalienable rights, to secure which governments are instituted.

In speaking of the Declaration of Independence, I once said, in the House of Representatives: "Mark its clear assertion of the equality of the individual right of every man to life, liberty and the pursuit of happiness, as endowments of the Creator, not an assertion of the equality in the endowments themselves, but in the right of each to that with which his Creator has endowed him; inalienable by himself, because it would be a breach of his duty thus to relinquish the trust reposed in him by his Maker, and inalienable by all others, because a violation of the right divinely vested in him."

In a word, we hold the doctrine of jus divinum Hominis, not that of jus divinum Regis. The man is trustee for God. He cannot, dare not, surrender his trust of life, liberty and self use. If any dare take these from him, held by divine gift, and in trust for his Maker, it is robbery of God.

To conserve these rights to the man, God ordained society. To conserve society as the school of the race, God ordained government. Society is God's trustee for the man—government is God's trustee for this association of men. Man is the cestui que trust. He is responsible to God for the divine gifts to him. He cannot allow society and government, the divine trustees for him, to abuse these trusts, and destroy his rights, without an appeal to God for protection in his religious resistance of their wrong to him, which is a defiance of their duty to God. Hence, resistance to tyrants is obedience to God, and a tame submission to tyrants is treason to God.

By this logic, for which Christianity furnished the premise of the trust duty under which man holds his divine endowments, the fathers 120 years ago, following in the steps of Hampden and Sidney and Milton and Locke, upheaved the English authority in

America and founded the system of government under which we live.

Man is the unit for whose good God ordained the social polity. Man was not made for the government—but it was ordained for his use of his God-given endowments, and for working out his immortal destiny.

All powers in government were divinely vested, to promote his well-being and to conserve his right. Man, as the creature of God, has a Supreme right to see that the divine purpose in the ordainment of government shall not be frustrated, and he is under religious obligation to use every device in his reach to prevent government from abusing its trust, and to make it fulfill its duty.

When, therefore, we speak of the rights of the people, we mean not the rights of the mass, but the rights of the man. This is the respect in which Christianity has done so much to change political science. This personality, this individualism, was also the peculiarity of the Teuton race (our father race), as distinguished from the ancient polity of Greece and Rome.

"The Hellenic State," says Bluntschli, "like the ancient state in general because it was considered all powerful, actually possessed too much power. It was all in all. The citizen was nothing, except as a member of the State."

Of the Teuton he says, speaking of "their strong, confident and self-willed individuality"———"the Teuton does not derive law, at least not directly, from the will of the nation; he claims for himself an inborn right, which the state must protect; but which it does not create, and for which he is ready to fight against the whole world, even against the authority of his own government. He rejects strenuously the old idea that the state is all in all. The whole relation is reversed. To the Teuton individual freedom is the supreme thing."

This modern idea—this Teuton and Saxon—this American idea, that the freedom of the man is the supreme thing, and that

whatever be the government, this liberty must be secured, is the germinal idea of all our American polity. How shall he secure this supreme thing—his individual freedom? This is the problem.

What is the peril to this liberty? It is, that some power extraneous to itself shall regulate it, and may destroy it. It will not work its self-destruction. It is only when power over itself is in alien hands that it is in danger. Wed power to right, and liberty is safe; divorce them, and liberty dies. The hand that holds the right must wield the power, or despotism triumphs.

Let the man then take care that he holds the hand which wields power over his liberty. This is achieved by our simple device of representation. If the ruler represents liberty, he will rule for its defense, not for its destruction. Fair and real representation by power of the rights it controls, will secure liberty against all possible despotism.

But the individual man is not alone. He is associated with a mass of others. How can he get a representation, where this mass may not agree with him in his selection? How can the individual will assert itself against the multitude of non-concurring wills? If you say the majority must rule—still the question recurs, where is the liberty of the individuals of the minority, if to be destroyed by the adverse will of the majority? Wherein differs a government by a King against my consent, and the government of a majority, just as adverse to my interest as the King, which governs me, as absolutely against my consent?

It is here that the simple device of popular representation fails to meet all the conditions of our problem; in fact fails utterly, without some additional device. Where populations are sparse, the difficulty is not so great; but in the crowded masses of the world, while the difficulty may be greatly modified, it can not be wholly removed.

Let me by concrete illustrations develop the increasing danger from increase of population, and the additional devices which must be used to minimize the evil, if we cannot wholly avert it.

Where the population is homogenous in interests, the rule of the major part is merely a matter of judgment in respect to a right common to all, where error will not be the result of vicious purpose, but of unwisdom, and in such case the error is injurious to all alike, and is readily remedied. It is where the population is composed of heterogenous elements, where the interests of the parts come into conflict, that the trouble arises. The major part and minor part are alien in right—and quasi distinct peoples. One grows by feeding on the other. Either's success is the other's ruin. In such case the tyranny of the representative party, which is that of the major part, is hydra-headed. A King may plunder all to sate his single greed—, but woe to that people, where the greed of millions must be sated by the plunder of the excluded and helpless minor part, who vote it is true, but are not truly represented.

So enormous a machine is government in its autocracy, which, by taxation, depletes the body politic at pleasure, and such parts of it as it may select, and then by partial distribution drives the life blood drawn from every part into those which may be the favorites of the driving power, that the history of the ages furnish numberless examples of castes and classes and combines of interests, getting possesion of this despotic agency, and using it to the advantage of the governing classes, and for the ruin of the subject classes. This is the history of the world. It is the history of all forms of government, of monarchy, aristocracy and democracy. It is the nature of government itself. It is a powerful thing for good, and therefore may become as powerful for evil. Selfish men, with sagacious eyes, see it is an engine, which in their hands may plunder the mass to sate their greed, as the ruling class. In every form of government, the one, the few, or the many have used it, do use it, and will use it, for the selfish purpose to enrich privilege at the expense of the unrepresented or misrepresented people. Power will be abused as long as human hands wield it,

unless curbed, and the people must invent some device whereby what our Creator ordained for our good, shall be prevented from becoming a machine for the destruction of those it was designed to save.

Mere representation designated by a majority of votes will not suffice. The representative preferred by the major antagonist is not the same as the minor antagonist would choose. If power over interests common to these antagonized orders in society be given to the major antagonist, his rights may be secured by the injury or ruin of the other. How can power be so organized as to save both, and ruin neither? That is one branch of the problem.

The other is this: Each of these orders may have some interest or right peculiar to itself, as to which the other has nothing in common; how is such to be secured against the major power of the other?

This brings us to the crisis, where federation between the orders, where Foedus, compact, must fix upon some devices by which the liberty of all shall be secured, and the power of neither shall avail to destroy the rights of the others.

Two devices have been invented:

1. Let each order be represented in a distinct part of the organism of government, and its separate consent be required for all action, so that neither alone can act, but both must concur in every act. Neither can then hurt nor be hurt by the other. Each is thus omnipotent for self-defense, and each is impotent for offense.

2. Let each order have exclusive power to regulate its special interests, without any power of the others to interfere in any respect.

The germ of these devices will be seen in history. The Jewish tribes, each with its separate control over its own interests, were banded in a rude federate nationality. The tribes of Greece, by their various leagues; the Achaean; the Amphictyonic; the Ly-

cian, and others, were banded for common defense with separate autonomy in each tribe. And in the Roman state, the once hostile Patricians and Plebeians were re-united, after the secession of the latter, under the new constitution of the Republic by a Foedus, which gave power of self-protection to each in the invention of the Tribuneship for the Plebeians, and its veto on hostile action by the Patrician tribes. Power was thus so wedded to right, that self-protection was secured to the separate right of each against the hostile power of the other.

This made Rome powerful and free, until foreign conquest brought through plunder of provinces, the influence of ill-gotten wealth to convert the Republic into an empire, whose dazzling splendor of dominion was ultimately extinguished by the corruptions of the whole body politic, and liberty perished under the heel of centralized despotism.

More striking instances of federation are found in Teutonic institutions.

The local nuclei of power in Teutonic life,—the Vicus—the Pagus, and the Civitas, were transferred to Saxon England under the names, (some of which survive in our American history) of the town or township, the Wapen-take or hundred, and the Shire or county of the English Commonwealth. These were, and continue to be in England, the localisms of power for the conservation of individual rights and personal freedom, which have by their federation, made the constitutional monarchy of England, after long and obdurate struggles with central despotism, the most splendid example of the freedom of the man under a powerful government, which is known in the world except our own most instructive illustration of this principle, in the federation of this American Union.

"God fulfils himself in various ways," In his beneficent Providence thirteen English colonies were planted upon the unsoiled and unwritten page of this new continent. Each brought

with it, as its own institution, the free principles of the Saxon polity, untrammelled by caste of royalty or of civil or ecclesiastical aristocracy. The bold colonists were, in their new homes, free, equal and independent men. Each colony self-developed its own distinct body politic. Massachusetts by Foedus or compact formed its body politic (this name is in its compact), before the Pilgrims landed at Plymouth. Virginia, of whom Ohio is a daughter, framed her body politic, as did Massachusetts, on counties, hundreds and like localisms, represented in the government of the commonwealth.

Each colony was self-governed, without relation to any people extraneous to itself, but the mother country. Each was a nation in embryo; a separate commonwealth in a qualified subordination to the government of England.

Old Virginia, God bless her! My mother, commonwealth, and Ohio's too, in 1651, by solemn treaty with the English commonwealth, assured to herself this article of freedom. "That Virginia shall be free from all taxes, customs and impositions whatsoever, and none to be imposed on them without consent of the Grand Assembly; and so that neither forts nor castles be erected or garrisons maintained without their consent." 1 H. St. at L., 363-4. By this article Virginia was only self-taxed, and no military power could frown upon her from Castle Heights, but by her consent. This was the keynote of the Bill of Rights of 1688-9, for English monarchy, and of our Revolution of 1776.

But usurpation came in the claim of taxation and of legislation for the colonies in all cases whatsoever by the acts of Parliament in the period from 1760-75.

Imperial power, divorced from Colonial right, announced despotic centralism. Each colony claiming to wed colonial power to colonial right, proclaimed freedom and independence. But how could each, with single hand, cope with imperial power? Federation was the solvent principle for the continental crisis.

Baron Montesquieu, in his "Spirit of Laws," Vol. 1, B. 9, Ch. 1, states in perspicuous language (quoted by Mr. Hamilton in the 9th number of the Federalist), the advantage of confederation between small Republics, as a security for common defense against external violence, and yet conserving to each the powers of internal control. Each manages its own internal affairs, thus wedding power to right, while the combined power of all is potential for the defence of each against an alien power, too great for successful resistance by any one of them alone. Montesquieu saw that a republic was best for the liberty of men, but should be small in order to the security of freedom. He says: "If a Republic is small, it is destroyed by a foreign force; if it be large, it is ruined by internal imperfection." And De Tocqueville says: Democracy in America 140: "Small nations have ever been the cradles of political liberty." In a small Republic the chance of antagonist interests is diminished; in a large one it is increased by the diversities of life in its separate parts. The argument therefore in favor of separation of territory into small republics for the liberty of each, and of confederation of all for strength to resist alien foes, is very obvious and powerful. This principle finds ready illustration in the felt need of municipal governments for cities, counties, townships and the like, and I need not dwell upon it further.

The American colonies were not confederated interse before the Revolution. They were founded at different dates; they had diverse systems of common law; each legislated for itself; none had power over any other, but each made laws excluding the persons and products of the others, at its own will; they had diverse forms of government, provincial, proprietary and charter, and except as dependents on a common crown, they were separate embryo commonwealths. Edmund Burke says they were purposely formed into "Separate Civil States with all powers of distinct legislation and government." In the great declaration of rights, by the first Continental Congress, October 14th, 1774, this free and

exclusive power of legislation in their several legislatures as to all taxation and internal polity, was asserted for each colony as its indubitable prerogative. The inter-colonial relation was that of independent embryo states, except as each and all were dependent dominions on the parent country. When the bond of dependence on England was severed, the colonists fell, like acorns from a parent oak, as the distinct germs of new commonwealths, without any inter-dependence or union. When, therefore, these embryo states, in 1774, were called to meet a danger common to all, each felt the peril of a single-handed resistance, and sought a combination of their separate strengths against a common foe, by federation.

This federation of colonies was of foetal States, and was at first only temporary. Upon proposals between them, a Continental Congress met in Carpenter's Hall, Philadelphia, September 5th, 1774, (in the language of Massachusetts), "to deliberate upon wise and proper measures, to be by them recommended to all the colonies * * * for the restoration of union and harmony between Great Britain and the Colonies," etc. It was a congress of deputies, spontaneously selected by each colony, for consultation as to the best mode of meeting a common danger.

The Declaration of Independence followed in less than two years. The embryo commonwealths became sovereign commonwealths, not by virtue of that declaration, but by the separate action of each state. Virginia adopted her constitution and organized her state government June 29th, 1776. Others did the same, each for itself.

In the debate on the declaration, John Adams, Lee, Wythe, and others, urged: "That the question was not whether, by a declaration, we should make ourselves what we are not, but whether we should declare a fact which already exists"; and it was only carried when the delegates of each state were able, by its separate action, to give its assent to the declaration. The declara-

tion itself was that these United Colonies "are, and of right, ought to be, free and independent states."

This important paper is usually headed, "A declaration by the Representatives of the United States in Congress assembled." This was changed in the engrossed form to this, which is worthy of note: "The Unanimous Declaration of the Thirteen United States of America."

Virginia, by her delegates, proposed to Congress, on the 7th of June, 1776, not only to declare independence, but that "a confederation be formed to bind the colonies more closely together." Up to that date a federation, voluntary and at will, for consultation and advisement, had existed; but this motion looked to a formal bond of federation between the colonies (then embryo states). This was followed by the Articles of Confederation, formulated and proposed by Congress to the legislatures of the states on the 15th of November, 1777. After some delay this organic federation was ratified and went into full operation March 1st, 1781.

These Articles of Confederation greatly enlarged the range of federal power, and defined with care the lines of demarcation between the functions of the Congress of the Confederation and the powers of the states.

Upon this question certain writers have attempted to uphold a theory, that the real relation between the states and the Congress was different from that which the terms of the articles emphasized. It seems, to a candid enquirer into the truth of an historic condition, that the contemporaneous formulation of it by the people involved in its operation, and effected by its existence, will furnish a better basis for our conclusions than the conceits of a generation, a century after the event, based upon after facts, and not upon the facts as they then existed. Thus Dr. Von Holst has said: "The American Statesman's dictionary was written in double columns, and the chief terms of his vocabulary were not in-

frequently inserted twice; in the right hand column is the sense, which accorded with actual facts, and was in keeping with the tendency towards particularism; in the left in their logical sense, and the sense which the logic of facts has gradually brought out into bold relief, and which it will finally stamp as their exclusive meaning." 1 Const. Hist. of U. S., p. 15, 16.

This theory, by which an historic condition proved by actual facts, is to be obliterated because of a changed status, a century later, may satisfy the mind of a learned German, but will hardly satisfy the candid judgment of an Anglo-American.

That the states were confederated under the Articles of Confederation, and not consolidated into one nation, is a fact too clear to be clouded by the mysticism of the historian, who makes the "actual facts" at the time yield to what he assumes to be the "logic of facts," a century later.

It is too obvious to need discussion that the new states of the Revolutionary era were more closely bound together by the Articles of Confederation than they had been previously. This was the avowed and much-needed object. The impotence of the confederation was a proverb; but it was potent, in contrast with the Continental Congress, prior to March, 1781. Its impotence was due to the fact that no nationality pre-existed the loose league from 1774 to 1781, and all power in Congress was what the states chose to confer from time to time. The confederation made it better, but its impotence makes the prior condition too pitiable for expression. These were the "actual facts." The "logic of facts," of which the learned author speaks, was that the people had changed the articles of Confederation into the Constitution, and removed the defects of the former by the provisions of the latter. But how can such change be made by any retroactive logic, to efface the actual records of history, and to rewrite the past in the modified conditions which a century has affected in the system of government? Such logic trifles with facts, and tempts us to falsify

history, by transfer of the facts of 1881 to the pre-existent facts of 1781. History is silenced by such false logic, and fiction is allowed to write what the facts brand as utter falsehood.

Let us deal honestly with history. The states, in 1781, sought by formal Articles of Confederation, to better their condition from what it had been under a merely informal league for nearly seven years. They did it as the best they could do. There was no single body politic to act; there were but thirteen states, but these were sovereign, free and independent. The powers of the union were held at will, and at best were inadequate to the exigencies of the period. The states sought by the best federation, which they could concur in forming, to achieve the independence and liberty of all their peoples. Nationalization was not possible, nor desirable. Federation was possible and might be improved in its form, as future necessity should indicate.

Look with me at this instrument for a moment.

Its caption declares it to be "Articles of Confederation and Perpetual Union between the States of New Hampshire * * * and Georgia."

Its first article baptizes it thus: "The style of this Confederacy shall be the United States of America." These words so dear to every lover of our Union, are the name of a confederacy.

In its second article are these emphatic words: "Each state retains its sovereignty, freedom and independence, and every power, jurisdiction and right, which is not by this confederation expressly delegated to the United States in Congress assembled."

On this article certain points must be noted: 1. The words "each state retains," indicate the pre-existing holding by each state of what it thus expressly retains; that is, "its sovereignty, freedom and independence." This asserts the pre-existent and continuing sovereignty, freedom and independence of each state. But further, "each state retains every power, jurisdiction and right, which is not by this confederation delegated to the United

States in Congress assembled; "that is, each and all, by the Foedus, delegate power, jurisdiction and right to the United States in Congress assembled, and hold back from Congress to each state, what is not so expressly delegated to Congress.

Sophistry cannot change this historic condition, thus asserted by the sovereign parties between whom this confederation was established. To say there was any "logic of facts," which can make this Article a delusion and a falsehood, is simply to substitute fiction for fact, and to re-write the solemn records of history with the after conceits of a later century.

But I wish especially to bring out the American doctrine of sovereignty and governmental powers, stamped irreversibly upon this first written compact of the American Union.

Many British writers and lawyers make sovereignty a synonym for the legislature. Says Blackstone: "Sovereignty and legislature are indeed convertible terms; one cannot subsist without the other." This English dogma, which involves the doctrine of the omnipotence of Parliament, has been refuted by writers, English and American; but has been specially repudiated by American jurists, notably by Mr. Justice Wilson, of Pennsylvania, a Revolutionary statesman and judge, in his valuable lectures lately re-edited by Prof. Andrews, and by my own revered ancestor, St. George Tucker, in his work on Blackstone, 1 Vol., Lectures 2 and 5; 1 Tucker Bl. App. A. 3-6.

It is an axiom among American political scientists, derived from other writers and their own profound reflections, started by Virginia, in her first Constitution of June 29th, 1776, and concurred in by all the States, that sovereignty is an essence and belongs to the body-politic, and that political powers exerted by governments are merely emanations from this essence of sovereignty, which abides in the people. Sovereignty is the dynamo in the people, not grantable but abiding; from which emanate the functions it assigns to the departments of government. Sover-

eignty is inherent and original; political powers are delegated by the sovereignty, and hence are derivative and at will. Sovereignty makes the people the principal; government its agent and trustee. The one delegates, the other is recipient of granted powers. The one is omnipotent, the other limited in power. The one is the irresponsible creator, the other the responsible creature. The powers that be may be primal or secondary. The body-politic is primal, paramount and supreme; the government secondary, dependent and subordinate.

The framers of this article of the confederation had this fundamental distinction in mind, when it was drawn. The first branch of the sentence relates to "sovereignty, freedom and independence;" the second to "power, jurisdiction and right." The first were retained absolutely; for how could the sovereignty, freedom or independence of a state be delegated to a government. The second related to governmental powers, which as emanations from the dynamo of sovereignty, could be delegated and distributed; and hence such as were delegated were exercisable by Congress, while such as were not delegated were retained by the states for their own separate governments.

This extraordinary provision, in its clear discrimination between sovereignty and political powers, is only explicable upon the hypothesis that the authors of it held fast to the fundamental and philosophic distinction between sovereignty as essence, and the governmental powers as emanations from that undivided and indivisible essence. Sovereignty (like the sun which is undimmed by its irradiation of light to the system of which it is the center), distributes its functional powers to the departments of government, but is unchanged in its nature, as the perpetual source of all political authority.

That in March, 1781, and theretofore, each state was sovereign, free and independent, the grantors of powers, and not deriving sovereignty or power from any other source than itself, is es-

tablished by these records; else history is a delusive fiction. And so by federative compact, these states continued to be until 1789.

Now, let it be further observed that by other articles of the confederation it was declared to be a league for common defense; that certain rights and privileges, as to intercourse, extradition, etc., were inter-communicated between the states; that the delegated power to Congress chiefly referred to the external relations of the states as to war, peace, treaties, etc., and the like; while many as to inter-state relations were also granted to Congress. But two exceptions confirm the general view already taken. Congress could lay no tax and raise no troops. Its money came through the states for which it was pitiably dependent on them, and its army for the common defense was raised by state power, and officered by the state, and not by Congress.

Let me further remind you how the two devices already referred to applied in the organism of the Congress, to conserve the separate interests of each of the states against the alien power of the others.

Please to recall the prime canon of liberty in all forms of government. Wed power to right in order to freedom, for if divorced, freedom will perish under the power which is alien to its right.

In the reservation and retention of every power, jurisdiction and right not expressly delegated to Congress, the exclusive power of each state over all interests distinct and peculiar to itself was secured. The alien power of other states could not intrude in the regulation of these by each state for its own people.

The possible antagonism of interest between the states in regulating common concerns of all under the articles was a matter of anxious consideration. The conflict presents facts instructive upon the historic question we are considering.

In the inchoate confederation, ex necessitate, each state by virtue of its equality, had one vote, despite its numerical inferiority to others, and none had more than one vote despite its numerical

superiority to others. A majority of states adopted or defeated any measure, regardless of numbers. Seven states, with a million of people, ruled three millions in six states. This was the condition prior to March, 1781.

The articles adopted in March, 1781, required the vote of nine states in order to pass a measure, but allowed five states to defeat it. Thus the nine smallest states could carry a measure, (numerically as 1,600,000 to 2,100,000), or five states could defeat it, (numerically, as 700,000 to 3,000,000). This protected states, but did not protect the people.

It was proposed in Congress as an amendment to the article, to require that the nine states, in order to pass a measure, should comprehend a numerical majority of the people of the United States. It was rejected, nine states to one. However unjust this may seem, according to the "logic of facts," it was inexorably compelled by the actual facts, because the United States were composed of thirteen states sovereign, free and independent, and were not a nation composed of 3,700,000 people.

Hence the articles conserved the safety of states as the component units of the Confederacy at the expense of numbers; and the result was one which caused great feeling, and was remedied as I shall show, by the new Foedus in the convention of 1787.

By the treaty of peace in 1783, made by congress, Great Britain acknowledged the United States, to-wit: New Hampshire, * * * and Georgia, to be free, sovereign and independent states, treating with them as such, etc. In 1784 Congress took a deed from Virginia for this territory, where we meet to-day, on condition to be laid out as states—as "distinct Republican States," to be admitted into the "Federal Union," with the same rights of sovereignty, freedom and independence as the other states, which were to become "members of the confederation or federal alliance," etc. Ohio became a member of the Federal Union, as a free, sovereign and independent state, like her queen-

ly mother, who gave this princely domain to all the federal sisterhood of states.

If these conclusions from these facts be still doubted, take one sentence of Chief Justice Marshall, in Gibbons v. Ogden: 4 Wheaton, 187: "Reference has been made to the political situation of these states anterior to its (the Constitution's) formation. It has been said that they were sovereign, were completely independent, and were connected with each other only by a league. This is true." And hear your own Justice McLean in Wheeler v. Smith: 9 How., 78, "When independence was achieved, the prerogative of the Crown devolved upon the people of the states, and this power still remains with them except so far as they have delegated a portion of it to the federal government. The state, as a sovereign is the parens patriae." If the Crown prerogative did not pass to the state as a sovereign, how could the Royal Charter to Dartmouth College have been held to be an irrepealable contract of the state in the Dartmouth College case? 4 Wheaton, 518. And again in Martin v. Waddell, Taney, C. J., speaking for the court said: "When the revolution took place the people of each state became themselves sovereign, and in that character hold the absolute right to all their navigable waters," 16 Peters, 410, etc.

One more word on these articles. They were only effectual when ratified by each and every state legislature, and could only be amended by the consent of each and all of them.

This was the first federal constitution as it was called by the public acts of that day and notably by congress itself in a resolution passed February 21, 1787, declaring its opinion of the expediency of holding the Philadelphia Convention in May, 1787, composed of delegates appointed by the several states "for the sole and express purpose of revising the articles of confederation, and reporting to congress and the several legislatures such alterations and provisions therein, as shall, when agreed to in Con-

gress, and confirmed by the states, render the federal Constitution adequate to the exigencies of government, and the preservation of the Union."

The state legislatures, (all except Rhode Island), appointed delegates. They met in convention in May, 1787, at Philadelphia. It called itself a "Federal Convention." Because a majority of states were not present it adjourned until a quorum of states appeared. They voted by states. Constitution passed, "all states concurring." Constitution itself declares it was "done by unanimous consent of states present."

In the originally proposed drafts, the word "National" was repeatedly used. Ellsworth, of Connecticut, moved to strike it out. It was purposely excluded from every part of the constitution.

It was ratified by each state separately, in convention of its own people; not by the delegated legislature, but by the sovereign body politic. All states but one, could not compel that one. "The ratification of the conventions of nine states shall be sufficient for the establishment of this constitution between the states so ratifying the same." C. U. S. Art. 7. The refusal of five states would have prevented its establishment, as to all. The ratification of nine states, operated as Foedus between the nine, but was ineffectual as to the four recusants. Hence North Carolina and Rhode Island, who declined to ratify, were foreign countries to the new Union, and subject as such to pay duties under our tariff laws; and were not within the benefit of our postal or other regulations. Their dissent made them foreign countries; their after-assent made them federates in the Union.

Much controversy has been made over the words in the preamble of the constitution, "We the people of the United States, do ordain and establish this constitution;" and the question is asked, can we doubt that it declares that the people of the United States ordained it? The answer is obvious. It was so ordained;

but who are meant by the people of the United States? Does it mean one body-politic? Does it mean the one people of the United States, or the people of each of the United States, and thus, strictly the people of the United States? The terms are an equivoque. Which is meant?

Obviously, that meaning must be attached to the words which consists with the historic facts. I defy the production of one fact in connection with the ordainment of the constitution, which consists with the hypothesis, that as one people, the people of the United States ordained it.

They met in a federal convention, whose units were states, quorum of states, equality of states, decision by equal votes of states. Congress, the only representative of unity, was excluded from any voice in decision. The Federalist says the constitution is founded on the assent and ratification of the people of America; but "given by the people, not as individuals composing one entire nation, but as composing the distinct and independent states, to which they respectively belong. It is to be the assent and ratification of the several states, derived from the supreme authority in each state, the authority of the people themselves. The act, therefore, establishing the constitution, will not be a National, but a Federal act." A Foedus between the states. The author goes on to say: "That it will be a federal, and not a national act, as these terms are understood by the objectors, the act of the people, as forming so many independent states, not as forming one aggregate nation, is obvious from the single consideration that it is to result neither from the decision of the majority of the people of the Union, nor from that of the majority of the states. It must result from the unanimous assent of the several states that are parties to it, differing no otherwise from their ordinary assent than in its being expressed, not by legislative authority, but by that of the people themselves. Were the people regarded in this transaction as forming one nation, the will of the majority of the whole peo-

ple of the United States would bind the minority, in the same manner as the majority in each state must bind the minority; and the will of the majority must be determined either by a comparison of the individual votes, or by considering the will of a majority of the states, as evidence of the will of a majority of the people of the United States. Neither of these rules has been adopted. Each state, in ratifying the constitution, is considered as a sovereign body, independent of all others, and only to be bound by its own voluntary act. In this relation, then, the new constitution will, if established, be a federal and not a national constitution."

In the first form of the preamble, the language was, "We, the people of the States of New Hampshire," etc. (naming all). This was adopted. Nem Con. The committee on style changed this to the present form, and it was adopted Nem Con. This unanimity in both cases shows the change was not in substance, but in form. In fact, as the states named were the United States, the name of the confederacy under the articles, the two forms are synonymous.

If asked, why then the change? The answer is obvious. The first form named Rhode Island. But why name her? She refused to come to the convention, and afterwards refused to ratify. The constitution provided also for a possible refusal by four states to ratify. It might well occur to the committee on style to adopt a comprehensive phrase, which would include all who should confederate, and not name those who might refuse. The generic phrase used imported the confederacy between the states.

But why use the word "people," instead of "states?"

The word state is sometimes applied the government of the state, the delegated authority, and sometimes to the people of the state as the sovereign body politic. The confederation of 1781 was between the states as governments, the legislatures of the

states ratifying the articles. It was designed by the constitution to put the new relation between the states on the more solid basis of the consent of the people of the several states. This is manifest through all the debates in the convention.

Hence, when the preamble designated the people, as the ordainers of the new constitution, it was to differentiate its foundation from that of the Articles of Confederation. The same parties, the United States, the name of the then confederacy. but the states federating by the sovereign act of their people, and not through the agency of their delegated legislatures. The sovereignty of each state could supersede its separate constitution by the supreme law of the constitutional Foedus between the states; but how could the state legislature do so?

That all this is absolutely true as the meaning of the words of the preamble, look at the ratifications by the states. Each convention ratified for the people of the state, and in their name. The Massachusetts convention expressed gratitude to God, in affording the people of the United States an opportunity "of entering into an explicit and solemn compact with each other"; and then, "in the name and in behalf of the people of the commonwealth of Massachusetts, assented to and ratified the said constitution for the United States of America."

In the procedure in convention, which proposed the constitution, the states by their separate delegates voted as states, and the constitution was "done by unanimous consent of the states present"; and the ratification of it by conventions of the several states was provided for in the constitution; the convention of each state ratified for itself alone and was bound thereby; there was no ratification by the people of all in mass, but only by the people of each state for itself; Rhode Island and North Carolina refused to ratify, and were foreign countries to the eleven states who ratified; where then, I ask, in the whole history, is there a single fact which would justify the construction of the

words of the preamble to mean that the constitution was ordained by one people of all the United States, and not by the many peoples of the several states? It was the act of the people of the United States, because the concurring act of the people of each and every state. These facts consist with the words of the preamble, but the facts stamp with absolute falsity the construction which makes the preamble mean that the ordination of the constitution was the act of the people of the United States, as one people, and not the concurrent acts of the peoples of the several states, as parties thereto. "It is true," said the great Chief Justice in McCullough v. Maryland, 4th Wheat. 403, "that they (the people), assembled in their several states; and where else should they have assembled? No political dreamer was ever wild enough to think of breaking down the lines which separate the states, and of compounding the American people into one common mass."

In the language of the conventions of New Hampshire and Massachusetts, this constitution of 1789 was an explicit and solemn compact between the people of the United States, each acting by and for itself alone. The federative idea of the Articles of Confederation, which was a mere compact between the legislatures, the delegated agents of the sovereign people of each state became by the action of the people of each state in their several conventions, an explicit compact between the people of the several states, supreme over each, because a compact between each and all the states.

The Government created by this great instrument was very different from that created by the articles of confederation. The powers of the government were greatly enlarged, especially in the power of revenue, and of the means by which all its powers may be exercised without dependence upon the will of the states. The defect in the articles was in the legislation by Congress for

states, and not for men. This was fully and wisely remedied. But the powers were limited by enumerated grants.

"The government thus established and defined," said Chief Justice Waite, in United States v. Cruikshank, 92 U. S., 542, 551, (your eminent citizen whom I knew and greatly esteemed) is one of delegated powers alone. Its authority is defined and limited by the constitution. All powers not granted to it by that instrument are reserved to the states or the people. No rights can be acquired under the constitution and the laws of the United States, except such as the government of the United States has the authority to grant or secure. All that cannot be so granted or secured are left under the protection of the states." Again, he says of the government of the United States: "Its powers are limited in number, but not in degree. Within the scope of its powers, as enumerated and defined, it is supreme and above the states—but beyond, it has no existence." In this the Chief Justice obviously had in mind the 10th amendment of the constitution. "The powers not delegated to the United States by the constitution, nor prohibited to the states, are reserved to the states respectively or to the people." The states, as grantors and delegators of powers to the United States, retain all not so delegated, unless prohibited to them by the constitution. The reserved powers belong to the states as governments, or to the people of the states as the grantors of powers.

And Mr. Justice Smith, in the Slaughter house cases, 16 Wall., 36, 82, said, in speaking of the last amendments, and of the belief of many in the necessity of a strong national government: "But, however, pervading this sentiment * * * we do not see in those amendments any purpose to destroy the main features of the general system. Under the pressure of all the excited feelings growing out of the war, our statesmen have still believed that the existence of the states with powers for domestic and local government, including the regulation of civil rights,

the rights of persons and property, was essential to the perfect working of our complex form of government," etc. And he added that the Supreme Court held, with an even and steady hand, "the balance between state and federal power."

In Lane Co. v. Oregon, 7 Wall., 71, 76, Chief Justice Chase your own eminent statesman-jurist), speaks thus for the whole court: "The people of each state compose a state, having its own government, and endowed with all the functions essential to separate and independent existence. The states, disunited, might continue to exist. Without the states in union there could be no such political body as the United States." * * * "The general condition was well stated by Mr. Madison, in the Federalist, thus: "The federal and state governments are, in fact, but different agents and trustees of the people, constituted with different powers and designated for different purposes." And the same Chief Justice, after quoting the above in Texas v. White, 7 Wall., 701, 724, said: "Not only, therefore, can there be no loss of separate and independent autonomy to the states, through their union under the constitution, but it may be not unreasonably said, that the preservation of the states, and the maintenance of their governments, are as much within the design and care of the constitution as the preservation of the Union and the maintenance of the national government. The constitution, in all its provisions, looks to an indestructible union, composed of indestructible states." * * * And then speaking of the Union as indissoluble, he adds: "Except through revolution, or through consent of the states." In other words, dissolution is possible by common consent of the parties, or by forceful revolution. The Union may cease to be, but the states are perpetual. This is confirmed by the later case of Collector v. Day, 11 Wall., 125, in which the court says: "Without them (the states), the general government itself would disappear from the family of nations." In other words, the United States (ex vi termini) depend on the

existence of the states in union. The union perishes when they are disunited, though they survive the dissolution of union.

This doctrine was stated when the constitution was under discussion, by Alexander Hamilton in the 9th number of the Federalist. In illustration of the proposed union as a confederate republic, he quotes Montesquieu as saying: "The confederacy may be dissolved, and the confederates preserve their sovereignty." He maintains that the new constitution creates a "confederacy and makes the government a federal government."

But Mr. Hamilton goes farther. In the 28th number of the Federalist he argues, from the confederate nature of the union, that the states, by inter-communication, can "unite their common forces for the protection of their common liberty"; that the states have powers as "independent nations" to raise armed forces to resist any "federal army" raised to maintain the usurpations of the "federal government." This, he argues, will be a certain security for the liberty of the people, through their state governments, against all despotic action of the "federal government." Mr. Madison enforces the same idea in the 46th number of the Federalist.

That the constitution is the concurrent agreement of distinct states, acting in sovereign conventions, for the establishment of a common government over all, with enumerated and limited powers, may be taken to be as fixed a fact in history, as its records can furnish.

Objection may be made to my use of the word "federal," instead of "national." As to certain functions, the government of the Union is national Mr. Jefferson, in instructions to our foreign ministers in 1784, said as to treaties, etc.: "The United States are regarded as one nation." So, in a letter to Mr. Madison, December 16th, 1786, he says: "To make us one nation as to foreign concerns, and keep us distinct in domestic ones, gives the outline of the proper division of power between the

general and particular governments." Oneness in the functions of the federal government is consistent with plurality of parties to the constitution creating it. Though organically separate, the states are functionally one as to all powers of the general government.

All the friends of the constitution called themselves "Federalists." The great party, whose views favored a strong government, was so designated. The collection of writings in favor of its adoption was called the "Federalist." Hamilton, Madison and others so called it. Washington, in his letter on behalf of the convention, called the government a "federal government"; Foedus was the ideal word that named the momentous transaction, which gave it existence. The convention at Philadelphia was a federal convention. The constitution, ratified by distinct peoples, was thereby established "between" them, and was called a "federal constitution." The states still continue to exist in all their sacred autonomy, and the judges so sanction their intangible and indestructible being. Let any national Sampson destroy these pillars, and the federal structure falls, for if there be no legislature there can be no senate; no electors for President; no United States, for there would be no states to be united. The term United States imports a multiple of units, not a unit of fractional parts. The words, wherever used in the constitution, are plural—not singular.

"This federal constitution is the best product of political science for the liberty of man." Why?

First—Because it weds power to right, by the admirable application of the two devices, already stated, and better adjusted in its provisions than in any previous or any existing system.

These two devices were: First—Let the diverse orders of society, in respect to interests common to all, be represented in some distinct part of the organism of the common government, so as to assure the concurrence of all the orders to any action by

the government. This prevents any from injuring the other without its consent. It is potent for defense, impotent for offense. Second—To give exclusive power to every order in society over its special interests, in which the other orders have nothing in common.

The first device is applied to the federal government. I cannot elaborate, and only suggest the points.

Numbers were at the mercy of states under the Articles of Confederation. Co-equality of states, without regard to numbers, was perilous to the rights of men. A compromise was made in the new constitution by which states dominate according to numbers in the House of Representatives; and states as such, dominate in the Senate, because co-equal, regardless of numbers. No law can pass, unless numbers and states concur. Both must agree, or no action results. Non-action is preferable to unjust action.

But further: Concurrence by the President is needed; the President represents a combine of the elements of numbers, and states, in an election by the colleges, and a large infusion of both, when elected by the house, for in this last, while numbers choose the representatives, they vote by states, as co-equal in weight.

But further: An independent judiciary checks the flagrant violations of the Constitution by the executive or legislative departments.

Right is thus wedded to power throughout, with a prohibitory power in the courts to prevent a violation of the fundamental will of the people.

In the organism of state governments the same device is illustrated, though not so strikingly.

The second device is applied in restraining the federal government from interference in the autonomy of each state. The interests of the people of the state must be under their exclusive control. Other states, separately, or through the federal govern-

ment, should have nothing to do with these. These are reserved to each state, and the federal action in respect to them is forbidden by the 10th amendment, and must be prevented by judicial power or otherwise.

Do you not see how these philosophic devices take their place practically in our federal system? And how deep is our interest, how solemn is our duty as lawyers, in seeing their integrity conserved?

Second—But all that has been said is made more valuable as a security to liberty, by the fact that the constitution is fixed in written form; that, as the confederated will of the sovereign peoples of the states, it is unchangeable, except by the power which ordained it; and that governments, federal and state, are subordinate to the paramount and dominating mandate of the Constitution.

This subordination of government to a fixed constitution, which is the sovereign authority, is the greatest discovery in political science, and is American in its origin and operation. The omnipotence of Parliament is the basic dogma of the British Constitution. The subordination of all governments to the supreme authority of the constitution is the corner-stone of American polity.

This supremacy, so essential to liberty, is attempted to be assured by two things:

First—The oath of every officer of government to support the Constitution; and second, by the judicial duty to give effect to the supreme law, when any action of government is in conflict with it. And this duty of the judiciary to uphold the supreme law, is made more certain by making its personnel independent of hostile action, by a term of office during good behavior.

These cardinal principles, by one of which, as to matters common to all, a government is constituted in which the rival powers of states and numbers are represented in distinct bodies,

the concurrence of which is needed for all action; and by the other of which matters peculiar to each state are controlled by a government for each, from which all the others are excluded, are the two devices by which, in our great federal system, power is wedded to the right controlled by it, and power and right are never divorced. By these liberty is secured, and despotism is exorcised.

This is the theory of our system; but it must be conceded that two and two do not always make four in political science, any more than in political economy.

In the federal convention, the rival powers which struggled for some compromise, were states and numbers. They were compromised by a Senate for co-equal states and a House for the representation of states according to population.

Much doubt was felt by wise members of that body whether these would be practically the real rivals in the future action of the government created by the Constitution. Many saw the cloud, not larger than a man's hand, presaging conflict between free and slave states, which finally brought the storm of civil war. Many saw a coming conflict between the commercial and planting states. These conflicting orders were not so adjusted by the Constitution as to avoid the evils resulting from their existence. Perhaps human prescience was inadequate to do so. But the devices which were applied have worked well, if not so well as could have been desired. The future, from which one apple of discord has been forever removed, may promise peaceful and prosperous working of the federal organism; if all true men be faithful to the division of powers marked between federal and state authority by the clear definition of the Constitution.

Permit me, in earnest sincerity, to indicate tendencies in our system which threaten evils of great consequence to the liberties of the people, from the undermining of the foundations on which it rests.

First—The Constitution is the fixed supreme law for the federal government, for the states and for men. It can only be changed by amendment according to its terms.

The danger is that there are men who look upon the rightful growth of federal power by use and prescription. They say the British Constitution is a thing of development; why not ours? Several conclusive answers may be given.

The British Constitution consists of the progressive precedents, which, as trophies of a warfare for centuries, by liberty against prescriptive prerogative, are established as muniments of its right. Liberty in the centuries has eaten in upon prerogative, and still does so, in order to the attainment of its final triumph. The British Constitution lives by growth. When growth stops, it dies.

Not so with our federal Constitution. It is the written compact of union between states as parties to it, only to be changed by its creators in the appointed mode. It is completed, not progressive. It is perfected, not in the progress of being perfected. To allow the government, its creature, by usurpation, to begin the use of a power, which shall, by prescription become a part of the Constitution, is to permit the agent to take power from his principals, the states, and give sanction to his usurpation by continued violations of duty. This destroys the foundation of the system, which subordinates the government to the paramount authority of a written constitution. It makes an usurpation a supreme law, when it is absolutely void. The government, by thus breaking down the fences, which limit its power, becomes unrestrained and absolute. It thus delegates to itself new powers, and claims sanction for its usurpation by prescriptive use. This overthrows the American system of constitutions based on consent of the people to which government is subordinate, and relegates the American people to the prescription of the old world despotisms.

If it is said the courts will make void these usurpations, I answer: The courts can only make null a law where its repugnance to the Constitution is irreconcilable, and when its violation of the Constitution is direct and obvious.

If the legislature glosses over the unconstitutional purpose for which a power (not unconstitutional per se) is exercised, the courts cannot declare it void.

We need a guard to the Constitution before a question reaches the courts, by a restraint on the legislature and executive. If these violate their oaths to support the Constitution, by doing what they do not believe it allows, on the pretext that the courts will annul their act if unconstitutional, they commit a flagrant breach of duty. Their duty is to support the Constitution by doing nothing which is not plainly valid by clear grant; the court's duty is to annul the act only when plainly void. The duties are different in nature, and are on independent lines. The people must have the double security, the oath of the legislator, that he will not do anything without clear authority, and of the judge that he will undo what is plainly repugnant to the Constitution. The people must strictly exact this double security.

We need to quicken the official conscience of the legislature and of executive officers to make them conform their acts to the Constitution; and not to fail to conform to it, on the plea that the courts will annul, if it be flagrant violation.

Some public men have argued that to exercise a constitutional power for a purpose, which is not within the scope of congressional authority, if they screen the purpose by not expressing it, is not a violation of their representative duty. But this is a fraud on the Constitution. It is a secret violation, which if known, would be annulled by the courts; but because concealed from judicial cognizance, cannot be annulled. Is not this actual fraud, made effectual by actual violation of oath? This indirection is as gross

a violation of the Constitution as a direct act, and more despicable, because giving effect to fraud by perjury. If this practice prevails, the Constitution will be undermined, its limitations will be broken down, and the federal government, though in theory one with only limited powers, will become practically a centralized despotism.

Second—The people are lending their influence to increase federal authority and to decrease state authority.

If any popular scheme needs money, the popular cry is to seek it from the federal government. The obvious reason is, that the federal revenue is derived by indirect, the state's revenue by direct, taxation. Profuse revenues in the federal treasury do not excite popular jealousy, as those in a state treasury. Expenditures by Congress, however profuse, are lightly regarded; while state expenses are watched with jealous scrutiny.

The people therefore naturally see power passing from the reserved state reservoir, into the delegated fountains of federal power, with satisfaction, rather than with suspicion or hostility. The balances of power are thus disturbed, and the people welcome centralism in its fatal progress at the expense of the local authorities of the states. All parties unite in spending a half billion a year by Congress, while a limited revenue and expenditure are allowed to the states.

Paternalism at Washington fills the lobby with greedy claimants for federal bounty, and empties the treasury, which the people are expected to refill for the foster children of a fatherly government. This may be spoken of without being subject to the charge of partisanship; for all parties do it.

Third—The wonderful physical means of our country; the extraordinary military and naval potentiality of the federal government, and the bold and chivalrous character of our people, are breeding in the people and their government an imperial

pride, which is fatal to free institutions. We feel our potential capacity for territorial expansion. We boast of it; we are tempted by conscious power to enter the lists and win the prizes of national ambition.

It may, if indulged, make us an empire, but we will cease to be a republic—"The Republic of Republics," Conquest, extra continental domain, entanglement in international affairs of other lands, may win for us a splendid fame in the world's arena, but it will destroy our free institutions; it will entail debt upon the country, and oppressive burdens on the people; the prowess and dazzling glory of our army and navy may fascinate the gaping crowd, but the simple lives of homepeople, happy and free and prosperous, will be put aside for the power, dominion and glory of a nation, built upon the ruins of the noblest and best product of political science, a federal constitution, where power is subordinate to right, and the liberty of the man is preferred to the glory of an empire.

Other dangers might be pointed out.

My object has been to indicate the present trend of our system. The ship of state, when first launched, had two dangers in its course: The Charybdis of centralism, the Scylla of secession. Disunion has been averted. Do not, I pray you, drive the vessel upon the rock of consolidation. In the language of a great judge: The swing of the pendulum has gone far enough towards centralization; let it rebound to the normal federation of the Constitution.

But I detain you too long.

Gentlemen of the Bar of Ohio, as thoughtful men, charged with the public duties of your noble profession, may I not invoke from you the purpose to do your utmost to save and uphold our federal system and avert the perils which menace it, as the best and highest duty we owe our common country; and let Virginia,

through one of her most devoted sons, unite with you, the children of her daughter, in the fervent aspiration for the integrity of our great constitution, as the best hope of the perpetuity of the union; as the guaranty of free institutions for ourselves and our children. and as the assurance of peace, progress and liberty to the peoples of these states, now and forever.

[IV]

CHOICE OF THE FORUM.

By James P. Wilson, Esq., Youngstown, Ohio.

In most ancient Greece there was but one forum, Areopagus, at Athens, upon the hill of Mars. It was before this court that Paul, formerly Saul, a Jew hailing from Tarsus, having been arrested for heresy, was brought for examination. Upon the hearing, however, pleading his own cause, he converted one of his judges, Dionysius, and was discharged by the court.

The advocate of ancient Greece had no choice of forum. With us, my brothers of the Ohio bar, it is different; in the last two thousand years times have improved. In many cases we now enjoy a wide discretion as to the soil wherein we will advise a client to plant his suit and expect to see it flourish. It has often been a matter of regret that we cannot exercise the further privilege of deciding where we would have our clients sued.

That there should be a possible advantage to be gained in one court, which could not be hoped for in another court of concurrent jurisdiction, implies either a fundamental difference in the laws which those courts administer, or a difference in the method of practically administering the same law.

A material difference in either respect may in a given case be productive of widely varying results, the consideration of which is a part of that honorable fealty which the relation of attorney and client imposes.

It will, perhaps, not transcend the limits of a paper of this character to consider one of the many phases of this subject—one of the most frequent recurrence and, therefore, of greatest interest to the Ohio lawyer—Where and under what law should

actions for personal injury, arising from negligence, be tried? If the negligence occur in Ohio, the injury or death result within this state, and suit be brought in an Ohio court, no question of conflicting laws can arise to challenge the ingenuity of counsel in the choice of a forum; and the problem usually degenerates into a consideration of whether to give security for costs and thus court the reputed favor with which juries in certain counties of our state are supposed to look upon damage suits, or to remain at home and save expenses.

But in the numerous and constantly increasing class of cases in which suitors are thronging to our courts for redress because of injuries inflicted in other states by persons or corporations upon whom service can be had in the courts of Ohio, the question, by what law shall their rights be governed and determined, looms into startling materiality. Shall the question, Whether the conduct of defendant complained of was such as to amount to a breach of legal duty and give rise to a cause of action, be determined by the laws of Ohio? Or shall the case be tried under the law of the place where the injury was inflicted? Is the fact that the plaintiff was or was not a resident of Ohio, temporarily absent from home at the time of his injury, material in the solution of this question? Is the fact that the plaintiff was or was not at the time of his injury engaged in the performance of an Ohio contract of employment made with the defendant, material in determining the question of what law shall govern? These and similar questions lie at the threshold of those transitory actions which are every day knocking for admission to our courts, especially in border counties of the state. They must be met and answered by counsel in determining his choice of a forum.

A moment's reflection will reveal their vital materiality. While it is the cherished tradition of our profession that we are servants of one common law, uniform and beneficent in its principals, unvarying in its application, tending constantly to achieve

the perfect symmetry of an exact science, yet to the briefmaker, groping perplexedly as he follows his slender thread of principle into the tangled skein of conflicting decisions, the effect is disillustionizing.

It has been well said by our Supreme Court in the case of Alexander v. The Pennsylvania Company, 48 Ohio State, 623: "In theory it may be true that there is no common law of Ohio or of Pennsylvania, but the common law is one and the same in every state acknowledging its obligations, and that the decisions of one state are but evidence of it, not binding on the courts of any other state. But as a matter of fact we know that in the application of the rules of common law to the affairs of men, there is, unfortunately, in the several states, a wide divergence; and that it necessarily follows that acts and transactions sufficient in one state to create a cause of action will not produce that result in another, and in the administration of justice, mere theory must be made to yield to the truth as established by facts and experience."

As illustrative of the sharp conflict of law between ourselves and our nearest neighbors to the eastward a few examples may be cited. An engineer, fireman and brakeman traveling westward through Pennsylvania toward Ohio, just before they reach the Ohio line are injured or killed by the negligence of their conductor. The Pennsylvania law denies all remedy; the Ohio statute gives full relief.

A railway mail clerk in Pennsylvania is a fellow-servant of the trainmen, and for their negligence, resulting in his injury, he cannot recover. As soon as he crosses the Ohio line he becomes a passenger and the company is absolutely liable. A coal miner in Pennsylvania has no remedy for the negligence of the mine superintendent who injures him, for under that jurisdiction they are fellow-servants. In Ohio there is no defense.

In Pennsylvania the employe of a rolling mill, hired to unload the cars on a mill siding, becomes a fellow-servant of the railroad company's trainmen, and for their negligence, resulting in his injury, no recovery; while in Ohio he has all the rights of a stranger to the company.

While, perhaps, the conflict is not so marked between the laws of Ohio and those administered in states lying to the south and west of our boundaries, yet in the law of negligence arising out of the relation of master and servant, Ohio may easily be considered to be the banner state, leading all the others by the humanity of her laws in the direction of a greater indulgence for the injured and a wider remedy. This tendency of our highest court has gone hand in hand with an ever increasing paternalism of our legislature—decreasing by statute the number of those who are fellow-servants; invalidating contracts which tend to release liability for negligence; raising presumptions of negligence against railroad companies in case of injury from defective machinery, imputing to them knowledge of these defects and many kindred acts.

Ohio is a good place to bring a damage suit!

Small wonder that the Pennsylvania widow, with her brood of orphaned children, comes into our state to plant the Pennsylvania death statute in our courts; small wonder that a continuous procession of the lame, the halt, and the blind wend their painful way across our borders along the lines of the great trunk roads which enter our state to seek that redress under our laws which is denied to them at home; until the courts in many of our border counties are clogged with their suits; and as they are of such a character that they may be advanced for hearing upon the dockets of our superior courts, their over-crowded calendar is still further augmented, and important civil litigation between our own citizens is hampered and delayed. And now the taxpayer complains of the largely increased expense of jury service in sup-

porting this foreign litigation. Here, then, is an abuse, the correction of which lies not with the legislature, but with the courts. It is of doubtful validity and of more questionable utility to enact laws against the invasion of our state by foreign litigants. This is not a jurisdictional question—these actions being transitory in their nature, may as a matter of comity between states or as a matter of course be brought here. The question must be met and solved on other grounds.

Upon what rule of comity can a plaintiff injured in another state invoke the laws of Ohio upon the merits of his cause and make an act which was innocent where committed, a negligent one here? In the language of the Supreme Court in the Alexander case above cited: "If the acts of parties impose no obligations on the one hand, and confer no rights upon the other, where they occur, no good reason is apparent why they should spring into active existence the moment the parties pass into another jurisdiction, which, if they had occurred therein, such relative rights and obligations would not have resulted. An act should be judged by the law of the jurisdiction where it was committed."

Here, then, would seem to be a key to the solution of this problem. While for an injury occurring outside the State of Ohio the plaintiff may have the advantage of our courts and our remedial procedure, he may not derive his cause of action itself from our laws. However, our lower courts have wavered upon this subject. The utterance of our Supreme Court is decisive so far as it goes, but in the only two cases ever before it, the Knowlton case in the 19 Ohio State, and the Alexander case in the 48th Ohio State Report, the law is declared and yet is limited by the particular facts in those cases, in both of which the plaintiff was injured while in the performance of a contract made outside of the state to be performed wholly outside of the state.

But what matters it where a contract is made by an employe with his employer, provided that in the performance of any part

of it he passes beyond the jurisdiction of our courts and is injured in some foreign state? And what matters it in the determination of this question, whether his cause of action for negligence sounds in contract or in tort? In either event his cause of action arose, if at all, the very moment his injury was inflicted, or never. That cause of action arose because of the breach of some duty, which his employer owed to him at the time of his injury. What that duty was, depended upon the law of the place where he was at the particular moment serving his master, because the conduct of the master toward him must at all times be governed and determined by the law of the place which the master is at that moment bound to obey. The conduct of the master is regulated by the law of the place where, in contemplation of the law he is, and where the servant actually is laboring. If his conduct is not negligent by that law, or if the negligent act of a subordinate servant by that law, is not the master's act, then another subordinate servant injured there, by that act, is limited in his remedy to a suit against that fellow-servant. It is, indeed, difficult to understand how, if no cause of action arose against an employer at the place where the injury was inflicted, because the employer's act was an innocent one there, a servant can find a cause of action by going into some other jurisdiction. Once concede that fact and it matters not into what jurisdiction the servant proceeds, or into what state, wherever the law would have given him a remedy if the injury had been inflicted there—in that forum he may sue and recover, provided he may procure service upon the defendant. To this reductio ad absurdum are we led by the contention of those who claim an action for negligence shall be determined by the law of the forum. Until we have a crisp ruling of our courts fully covering this question, we may expect foreign litigants to choose the forums of Ohio.

Perhaps no better statement of the rule can be made than that given in a recent case—the Alabama C. S. R. Co. v. Carrol,

reported in Seventh American Railroad Corporation Reports at page 254, as follows: "The only true doctrine is that each sovereignty, state or nation has the exclusive power to finally determine and declare what act or omissions in the conduct of one to another—whether they be strangers, or sustain relations to each other which the law recognizes, as parent and child, husband and wife, master and servant, and the like—shall impose a liability in damages for the consequent injury, and the courts of no other sovereignty can impute a damnifying quality to an act or omission which afforded no cause of action where it transpired."

It would seem then to be of no material consequence, where the contract of hiring between master and servant is entered into. The sole question is, where was that contract actually in the course of performance when the injury was inflicted, for by the law of that place the rights should be governed. The validity of the contract—the validity of any express stipulations contained therein—the meaning of the contract—all these are to be determined by the law of the place where the contract was made; but so far as the implied duties of the master and of the servant are concerned, the duties imposed by the law of the land, they are all determinable by the place where the contract is, in fact, at any given time in the process of the performance, whether it be stipulated that the contract be performed in that place, or elsewhere; and as to those duties the only effect of the contract itself is to establish the existence of the *relation* of master and servant. The doctrine is like that which prevails in respect to other relations, as that of man and wife. The entering into a marriage contract raises certain duties and imposes certain liabilities in all countries. What these duties and liabilities are at the place of the contract are determinable by the laws of that place; but, when the parties go into other jurisdictions, the relation created by the contract under the law of the place of its execution will be

recognized, but the personal duties, obligations and liabilities incident to the relation are such as exist under the law of the jurisdiction in which an act is done or omitted, as to the legality, effect or consequence of which the question arises. So that it is unsound to urge that a railroad employe who hires in Ohio to work in Ohio, Pennsylvania and New York along the line of the road, reads into his contract and impliedly incorporates into it the common and statutory law of the state of Ohio, imposing certain obligations upon his master, which he can enforce if these duties be violated in the state of New York or Pennsylvania. It might with equal force be urged that contracting, as he does, to work in three states, he impliedly assumes to be governed by the law of each one of these states through which he is to perform his labor, and incorporates their law of negligence in his contract. Such a view of the law would lead to a shifting scale of liabilities, evasion of express statutes, and an assuming of obligations not legally imposed, as confusing as it is paradoxical.

The uncertainty, however, prevailing upon this question in our state is an ignis fatuis, luring the damage claimant who cannot prevail at home, across our borders, groping for the illusory hope of prevailing here; it is a will-o'the-wisp to the damage attorney in his choice of a forum.

But there are other false lights which have influenced the choice of plaintiffs and tended to render our courts a favorite forum for their resort. These latter causes, however, will all be seen in a last analysis to result directly from the first—they are the legitimate results of wide disparity and strong conflict of law between our state and its neighbors.

Whether the reputation acquired by the law-making and law-administering branch of the state of Pennsylvania be deservedly gained or not, it is, nevertheless, a matter of general opinion that as to the rights of servants and employes, those laboring for others for hire, the law of Pennsylvania is harsh and oppressive.

It is probably an exaggeration to say, as was alleged by a recent text writer upon the subject of negligence, to quote his language, "It is a matter of public notoriety that a certain great trunk line, (naming it) runs the legislature of this state with the same regularity and dispatch that it runs its trains." Certainly to an Ohio lawyer, tinctured with that broader humanity which voiced itself in the early decisions of our courts in adjusting the relations of master and servant, the rule of the Pennsylvania courts made necessary by their system seem almost, in certain cases, to amount to a denial of justice.

What, then, is the natural—I might almost say—the necessary result? After the invisible line has been passed and the Ohio farms begin to stretch westward, what other result could be expected than that jurors drawn from those counties next adjacent to the line, educated to the theory and impressed with the belief that their Pennsylvania neighbor, maimed, crippled, paralyzed, mayhap—is denied his right—should be over-zealous in his behalf, and so far as the jury may do so, fill his cup of justice to the brim.

Such has been the practical result of this conflict of law worked out in actual experience term after term in many of the outlying counties which fringe the border of our state.

Speaking of the eastern portion of the state, to which the experience of the writer has been limited, the reaction against real or supposed grievances arising out of the Pennsylvania method of administering the law of negligence, sets in strongly the moment the state line is passed. Whether or not at all times it may be urged as a just reproach to our jury system, especially in actions for negligence, that the average juryman is swayed more strongly by compassion than by reason, and is prone to be more zealous in dispensing the charity of corporation to the unfortunate than in the accurate adjustment of the relative rights of employer and employe, certain it is that with the added incentive

of correcting on this side of the line what seems to be a popular evil upon the other, and thus evening up matters between employer and employe, the invariable and excessive verdicts rendered by juries in these localities in recent years has given to the opponents of the jury system a strong and forceful argument for its abolition. The reaction borne in public sentiment and guided only by individual caprice has gone widely to the other extreme—the pendulum has swung to its opposite height. The reputation gained by certain counties because of this tendency of its juries, while it cannot but make the judicious grieve, is yet the magnet which continues to attract the foreign litigant hither, and to determine his counsel in the choice of a forum.

While it may be creditable to mankind that his God-given compassion lies nearer to the surface and is more easilv reached and swayed than his sense of justice, yet, it must, nevertheless, have been exasperating to that counsel for a railroad company, who, after having suffered the usual verdict against his client at the hands of a jury in a suit by a Pennsylvania widow to recover for the death of her husband, meekly inquired of some of the jurymen as follows: "Upon what ground did you find the railroad company guilty of negligence so as to render a verdict against it?" He was met by the conslusive reply, "Why, the devil! What else could we do? The man was dead, wasn't he?"

Another instance or two in this connection may not be amiss: In a certain case, a suit for personal injury at a street railway crossing, it became material for defendant to show how far the plaintiff could see along the track in the direction from which the engine was approaching. A photograph was introduced in evidence by the defendant, taken at a point eleven feet from the track looking eastward, which plainly showed a building standing alongside the track and half a mile away. The other witnesses testified that by careful measurement, standing eleven feet from the track, a view for one-half mile could be had. The plaintiff

offered no evidence whatever on this point. The jury, by special verdict, in answer to the inquiry, "How far could a person standing eleven feet from the track see along the track to the east?" gravely answered, "About one hundred feet." In the same case it was not disputed that the headlight was brightly burning; and in reply to the interrogatory, "What prevented the plaintiff's seeing the headlight of the locomotive?" the jury, after serious deliberation, answered, "Darkness." It is neddless to say what the verdict of the jury was; it is equally unnecessary to say what became of it.

In another case the plaintiff was brought into court on a cot, ostensibly suffering from severe spinal affection; physicians testified that he was a hopeless paralytic and would shuffle through life, dragging a pair of useless limbs. The jury thought eighteen thousand dollars ($18,000.00) ought to compensate him and rendered a verdict accordingly. A few months later the plaintiff was seen on the top of a load of hay, merrily pitching the hay at the end of a fork into his hay-loft, like any other able-bodied farmer.

Rumor quick to spread the fame of verdicts such as these soon establishes the delusive reputation that certain outlying counties of our state are favorable forums for the prosecution of suits for negligence. Litigants flock hither, until it is within the truth to say that after many of these cases have been removed to the United States' Courts on the ground of divers citizenship or local prejudice, still enough of them remain pending in several of our judicial subdivisions to occupy fully two-thirds of all the time of the Common Pleas and Circuit Courts therein. As a result the subordinate and interemdiate courts of these counties wield a trenchant blade, and oftimes

> "Error wounded, writhes in pain,
> And dies among its worshipers."

What, then, is the remedy? We may confidently rely upon the operation of that natural law which, taking the years together,

is invariable, through which every abuse tends to correct itself and work out its own reformation. Even now, in fact, there appears to be a turning of the tide; but not until the taxpaying juryman himself began to feel the drain of an increased tax, made necessary to support an enormous alien litigation. Yet, when the wave shall have receded, the conditions remaining the same, a second onrushing of the waters will surely follow.

The legislature of Ohio may enact laws providing remedies for the enforcement of rights, either in behalf of our own citizens or citizens of other states, when those rights shall have accrued under the laws of other states; but it cannot confer either upon its own citizens or others, rights of action which did not accrue to them by the law of the place where the injury was inflicted. The legislature then being powerless to enact a law having extra territorial effect and operation, the courts cannot by a species of judicial legislation confer upon litigants causes of action which had never accrued at the time when and in the place where a suppositious right was invaded.

It is submitted, therefore, with such deference to the opinions of others as the contrariety of judicial decisions on this subject enjoins, and with as much modesty as a lawyer may with safety profess in the face of the general public opinion, which denies that virtue to our profession—that a correction of this perverted order of things may be worked out through the courts along the well-settled rules of interstate comity.

Let us recognize the legal rights of plaintiffs—whether citizen or alien—injured abroad in person or effect, to seek that remedy which our courts afford; because such actions are personal and transitory and travel with the individual, and because the courts of our sister states open their doors to redress similar wrongs inflicted here. But whether those actions so admitted to our courts sound in tort or whether they sound in contract, whether complainant be or be not a resident of Ohio, if the injury

of which complaint is made be sustained outside the borders of our state, let the merits of the case—the purely legal questions of right to recover—be absolutely governed and determined by the law prevailing at the place of injury.

Such a rule could work no injustice to any man. On the contrary, it would afford in certain classes of cases additional statutory remedies for the enforcement of the existing rights accruing elsewhere. Under its operation, however, the resident of a sister state could gain no advantage in rights by the choice of a forum. The practical effect would be more and more to confine the remedy to that jurisdiction which created the duty, and which in reason should redress its violation. Then the courts of our state, swept clear of that drift-wood of foreign litigation which has for so long clogged the wheels of justice in these localities, would bring to our own people a measure of relief from overcrowded dockets and justice long delayed. Then would the courts in general be free to accomplish their primary function, to administer justice to those communities by which they are established, and from which the revenue for their maintenance is derived. Then would their grinding exceed in celerity the mills of the gods, and the grist thereof would be "exceeding fine."

[V]

HONORABLE ALLEN G. THURMAN.

By Herman Braun Albery.

Is is eminently appropriate that the State Bar Association should take note of the departure of members to "That Undiscovered Country" from whose silent border there is no return, and whence no report can come. It is becoming also that some record be made that will commemorate and preserve somewhat of their lives and character. It is with no little diffidence and misgiving that I undertake to write a brief sketch of the life, career and character of a member so distinguished as the late Allen G. Thurman. I apprehend, however, that none will expect anything in this sketch that is not already well known to all. Moreover, I am convinced that if my old friend Judge Thurman himself could make a suggestion, it would be to the effect that naught should be set down but the simple, unembellished facts and incidents of his life. I shall, therefore, not attempt more than a resume of what newspapers, legal journals and other publications and obituaries have from time to time amplified and given to the public touching the life, character and public services of Judge Thurman.

I am confident that nothing more worthy of the subject or more acceptable to the Ohio State Bar Association can be produced, than the admirable memorial presented to the Supreme Court of Ohio by the committee appointed for that purpose. I have been kindly furnished with a copy of that memorial by Hon. R. A. Harrison, who I am sure largely contributed to its preparation. My adoption of it almost entire will, I am certain, meet with approval.

Allen G. Thurman was born at Lynchburg, Va., on the 13th day of November, 1813. He died at his home in Columbus on the 12th day of December, 1895. He was the son of a Methodist Episcopal minister, Pleasant Thurman, and of a daughter of Colonel Nathaniel Allen, who was closely related to Joseph Hewes, a signer of the Declaration of Independence of the United States.

In the year 1819 the Thurman family removed from Virginia to Ohio, and settled in Chillicothe. The son received an education which prepared him for college, to which most of his classmates went; but young Thurman's parents were poor and he could not go; but he resolved that he would learn as much at home as they learned at college, and he did. Diligently pursuing his studies, he learned and practiced land surveying, and acquired a thorough knowledge of the French language. When he arrived at man's estate he was a thoroughly self-educated man and well equipped to enter upon his distinguished career. Governor Lucas appointed him as his private secretary. While discharging the duties of that position he studied law.

He was called to the bar in the year 1835, when he was under 22 years of age. He began his legal studies in Chillicothe, in the office of his uncle, William Allen, then a Senator of the United States and afterwards Governor of Ohio. These studies were finished under the instruction of Noah H. Swayne, afterwards a Justice of the Supreme Court of the United States. He soon took high rank among the great lawyers and advocates of Ohio, Ewing, Stanbery, Vinton, Hunter, Leonard, Chase, Swayne and others, and he rapidly acquired a large local and circuit practice. He was indefatigable in the preparation of his cases, both upon the law and the facts, whether they involved much or little in amount. He was a logical, forcible and accomplished advocate. His professional integrity and honor were above suspicion.

In the year 1844 Judge Thurman was married to Mary, a daughter of Walter Dun, of Fayette county, Ky. This happy union was severed by Mrs. Thurman's death in the year 1891. The Judge never recovered from the shock.

Judge Thurman, although a staunch Democrat, was elected a member of Congress in 1844, from a Whig district. Those were days when the great struggle between freedom and slavery began. Loyalty to the Federal Constitution precluded him from taking an aggressive position against slavery in the Southern States. But in the House of Representatives he opposed the repeal of the Missouri compromise, which restricted the territorial limit of slavery, and also supported the measure known as the "Wilmot Proviso," which prohibited slavery in all the territories of the United States. At the close of his term he heeded the demand of his large law practice and declined a renomination. In 1851, when he was 38 years of age, his fame as a lawyer was so general and well established throughhout the state that he was elected a Judge of the Supreme Court of Ohio. His judicial opinions are conspicuous for their clear, cogent reasoning and accurate statements of the law. He is universally recognized as one of the ablest, most learned and best judges in every respect Ohio has ever had. For the excellence of his judicial work, the bench and the bar will forever hold his memory in grateful esteem. At the expiration of his term as Judge, Judge Thurman declined a renomination and then became a resident of Columbus, where he resumed the practice of law. He necessarily confined his practice mainly to causes in the Supreme Court.

In 1867 Judge Thurman was the candidate of his party for Governor of Ohio. His Republican opponent was General Rutherford B. Hayes. The canvass was close and exciting. General Hayes was elected by less than 3000 votes. The General Assembly, which was elected at this election, was Democratic in both branches, and elected Judge Thurman to the Senate of the

United States, where he took his seat on the 4th of March, 1869, at which time there were but seven Democratic members in that body. He soon acquired a national reputation. He took the position as leader of his party in the Senate. His senatorial career continued for twelve years. It was distinguished for eminent ability, courage and statesmanship. He was universally recognized as the best equipped member of his party for efficient service in the Senate. He was chairman of the important committee on the judiciary. It was in that capacity that he rendered his best service to his country. This service was non-partisan.

Judge Thurman introduced into the Senate a bill which was passed, and is known as "The Thurman Act," enforcing the obligations of the Pacific Railroad companies to the United States. Its passage was the most signal victory won in our time in a pitched battle between the people of the United States and those who sought to despoil them. In this contest Judge Thurman was strongly supported by Geo. F. Edmunds, of Vermont, one of the Republican members of the committee on the judiciary. These leaders of their respective parties entertained for each other the highest regard, and upon nearly all non-partisan measures they co-operated during the twelve years of Judge Thurman's service in the Senate. Indeed, Judge Thurman's ability and character, as well as his bearing, in the Senate commanded the respect and admiration of all his political opponents, as is shown by the following extract from Senator James G. Blaine's "Twenty Years in Congress": "His rank in the Senate was established from the day he took his seat. He was an admirably disciplined debater, was fair in his methods of statement, logical in his argument, honest in his conclusions. He had no tricks in discussion, no catch phrases to secure attention, but was always direct and manly. He left behind him the respect of all with whom he had been associated during his twelve years of honorable service."

This tribute from the pen of Mr. Blaine may appropriately be supplemented by the kind words so fitly spoken by Governor McKinley on hearing of the death of Judge Thurman. Governor McKinley said: "The death of Judge Thurman is a deep loss to Ohio and to the nation. His long and useful career, characterized as it was by nobility of purpose and purity of character, endeared him to the hearts of the people irrespective of party or politics. His death removes one of the nation's greatest statesmen and one of Ohio's greatest citizens, and all mourn his loss as we would a beloved friend."

Judge Thurman was a member of the so-called Electoral Commission created by Congress composed of five Justices of the Supreme Court of the United States and ten members of Congress, to hear and decide the matter of the controversy (which seemed at one time to threaten the internal peace of the republic), that arose from the fact that General Hayes had but one majority of the electoral votes over his opponent, Mr. Tilden, whose supporters asserted that the election was not fairly conducted, and that many votes for Mr. Tilden in the South had been thrown out by those whose duty it was to count them. After investgating the facts the commission decided in favor of General Hayes by a vote of 8 to 7. Judge Thurman's vote was one of the seven.

Upon retiring from the Senate, President Garfield appointed Judge Thurman, with Senators Evarts and Howe, to represent the United States at the international monetary conference in Paris. The great esteem in which Judge Thurman was held by his party and country is shown by the fact that in each of the national conventions of the Democratic party, held in the years 1880 and 1884, he received many votes as candidate for President. In the year 1888 he was nominated for the Vice-presidency, but his party was defeated and he failed of an election. This nomination was not desired by him and was only accepted be-

cause he believed it to be a duty which he owed his party, who had so often and highly honored him.

The underlying and fundamental article in Judge Thurman's statesmanship was, that the sole and only legitimate end of government is to protect the citizens in the enjoyment of life, liberty and property, and that when the government assumes other functions, it is usurpation and oppression. The application of this principle led him to oppose some measures which a majority of his countrymen deemed essential to the general welfare.

Judge Thurman's last appearance as a lawyer in the courts of the county was as one of the counsel for the state in what is known as the Franklin County Tally Sheet Forgery Prosecution. Many weeks were occupied in the trial. The defendants were charged with altering tally-sheets so as to defraud certain persons out of offices to which they had been elected. The accused were members of Judge Thurman's political party, but his anxiety to preserve the purity of elections was so intense that he did not hesitate to enter upon this prosecution and conduct it with great vigor. For many weeks, although suffering physical pain, he was in daily attendance upon the court. His argument was one of great power and replete with the noblest sentiments of patriotism.

Judge Thurman endeared himself to his fellow-citizens by his many admirable qualities as a private citizen. If his public life was pure, brilliant and useful to the republic, his private life was not less pure, attractive and useful. He carried his integrity and honesty in private affairs, into public life where they were so stalwart and pronounced that their active manifestations excited animosities among those whose schemes of spoliation he aided to defeat. In the sphere of politics he deemed acquiescence in corruption as bad, if not worse even than corruption itself. He was kind and generous. He never declined to extend a helping hand to the deserving who sought his advice or assistance. These personal qualities and his striking personality and great force and

integrity of character contributed as much as his powerful intellect and profound learning to his eminent national, state and local reputations.

As before intimated, Judge Thurman was most happy in his domestic life. Kind of heart, he was open-handed to the humble, poor and needy; not content to lend a helping hand only to those whose cases were presented to him, he cordially seconded his most excellent wife in seeking out those who, too modest and sensitive, would suffer in silence rather than make their condition or wants known. And many a family was relieved without knowing the source whence the help came.

Judge Thurman was what might be called a plain man, unassuming, and without the slightest ostentation of manner, yet he was a figure to attract attention wherever seen. The use of snuff for many years of his life was a habit well known to his friends, and it was a real pleasure to see him take out his snuff-box and then reach for his red bandana handkerchief, which became almost as famous as the Judge himself.

Judge Thurman was a splendid type of that school of grand old lawyers now nearly all passed away, "Hidden and lost in the depth of the grave." But few of those old dignified, courteous and learned lawyers yet remain, and a multitude of a different school and type comes to take their places. I do not mean to say that the present generation of lawyers is not made up of dignified, courteous and educated men of ability, but I have sometimes thought that in at least some of the young lawyers there was something lacking which those fine old lawyers possessed.

Seeing Judge Thurman in court or elsewhere among lawyers he always appeared to be larger, stronger, and intellectually above others, and while others labored beneath their argument it seemed that he could "stoop and touch their loftiest thought."

He was familiarly known as the "Old Roman," and he might well be styled the "Noblest Roman of them all."

[VI]

MEMORIAL ON THE LATE JUDGE HENDERSON ELLIOTT.

BY A COMMITTEE OF THE MONTGOMERY COUNTY BAR ASSOCIATION.

The peaceful death of Judge Henderson Elliott, senior Judge of our Court of Common Pleas, after nearly twenty-five years of continuous service on the bench, marks the close of a noble life and of a distinguished and honorable career.

Preceded as it was by weeks of severe illness, following several years of impaired health, his death was, indeed, not unexpected; but it is no less the occasion of the most profound sorrow and regret, both on the part of our bar, who loved and honored him, and of our whole community, whose entire confidence and respect he at all times merited and enjoyed.

For nearly three decades of our city's recent history, no one among us has been more conspicuously and continuously before the public eye than Judge Elliott.

No name has been better known to our citizens; no voice has been more often listened to; no personality has been more familiar than his.

As the responsible arbiter during his long term of judicial service of all those varied questions which come before a court of justice, his judgments have affected valuable property rights, domestic happiness and welfare, and in some instances even life itself, and he has controlled at times the destiny and well-being of entire communities; yet, during all these years of trial (for he himself has been on trial, no less than those who came before him), no breath of suspicion has ever touched him—no trace of

stain has sullied the judicial ermine in his keeping; and it may be truly said of him: "None knew him but to love him; none named him but to praise."

We cannot repress—and we would not if we could—that natural sorrow, that sense of personal bereavement which we feel in the loss of such a man and such a judge, but surely the occasion is not alone one for sorrow.

In a sense it may be said of Judge Elliott, as indeed of every good man who has been permitted like him, to fill out the full measure of his years, that, "Better is the day of his death than the day of his birth," for his death witnesses the full development and realization of that character and career which were at the first only latent and possible, and of which his earlier years gave promise.

Along with our sorrow, then, we should feel proud that we have known such a man, and been permitted to cherish and associate with him as a friend.

We should congratulate ourselves that one of our number has stood so severe a test of character and come forth unscathed, and we should impress upon our minds the lessons to be learned from the events of his useful and honored life.

* * * * * * *

Judge Elliott was a native of North Carolina, and was born in Perquinaus county in that state, on August 17th, 1827. He was the son of Jesse and Rachel (Jordan) Elliott. His early ancestors on both sides were Irish, Colonel William Elliott, his first American ancestor, having emigrated from Ireland toward the close of the seventeenth century. His grandparents on both sides were Quakers. In the year 1830 young Elliott removed with his parents to Ohio, where the family engaged in farming. In 1839 the father died, and a few years later, at the age of 16, the son, who had shown some taste for mechanics, apprenticed himself to learn the trade of cabinet making. He relinquished

this, however, at the end of six months, and after an additional period devoted to mechanical pursuits, all his spare time being given meanwhile to reading and study, he entered upon active preparations for teaching.

His opportunities for even a common school education were limited, hence he worked by day and studied by night until he was able to pass an examination qualifying him to teach in the county schools.

After some years spent in alternately teaching and attending school, in 1845 he entered Farmers' college, near Cincinnati, Ohio, where he had the benefit of the teachings of the foremost educators of that day, such as Freeman G. Carey, Rev. H. H. Bishop, D. D., Dr. John Scott and others; and where he had among his schoolmates ex-President Harrison, Murat Halstead, Bishop J. M. Walding, and also Lewis B. Gunckel and the late Edmond Stafford Young, afterwards leading members of the Dayton bar.

At the close of his collegiate course, he resumed teaching, and at the same time commenced the study of law under General Felix Marsh, a prominent lawyer of Eaton, Ohio.

He was admitted to the bar by the Supreme Court of Ohio in the year 1851, his examination having been conducted by Hon. William Dennison, afterwards Ohio's first war Governor.

Throughout all his efforts to obtain an education, both at school and while engaged in the study of law, he made his own way without the assistance from others, paying his expenses by teaching.

In the spring of 1852 he opened a law office in Germantown, Ohio; but business not proving as profitable as he had hoped, in 1856 he removed to the city of Dayton.

Here, with the exception of three years spent in editorial work, he continued in the practice of his profession.

He was prosecuting attorney of Montgomery county during the period from 1861 to 1863, and was elevated to the common pleas bench in 1871.

In this latter position he served continuously for nearly twenty-five years, and performed an immense amount of judicial labor.

He presided in every class of cases which come before our nisi prius courts, including both those at law and in equity, and both those of a civil and criminal nature.

His predilection always was for the equity side of the court, and notwithstanding the fact that he sat in about eight hundred felony trials, and in many hundred of civil jury trials, he was best known for his ability in the trial of equity, corporation and ecclesiastical cases.

He gave special attention to railroad law, having had before him a number of important cases, involving large property interests of that nature, and his experience in the trial of church controversies was considerable.

Out of the thousands of cases decided by him as a judge of the Court of Common Pleas, only one criminal case, and less than half a dozen civil cases, have been reversed by the Supreme Court, and in his decision of the criminal case referred to, Judge Elliott was so clearly right in principle, that the Legislature subsequently amended the statute to conform to his views.

In a work entitled "The History of Dayton," published some eight years since, the author of the department allotted to the "Bench and Bar," Hon. George W. Houk, himself an accomplished lawyer, referring to Judge Elliott's career on the bench, remarks:

"No judge has ever so long continuously discharged judicial functions in Montgomery county since its organization."

And in concluding his reference to him he makes this complimentary, though well deserved, statement:

"The judicial qualities of a mind, possessing a strong sense of natural justice, and well learned in the elementary principles of the law, have been developed by long experience and con-

scientious devotion to duty, and to rare excellence. Judge Elliott's decisions uniformly give evidence of a clear legal mind, great industry and patience in the examination of cases tried before him, and an honest purpose to do no unrighteousness in judgment."

Judge Elliott was always a Democrat in politics, but after his elevation to the bench, he was never actively identified with either party.

At the breaking out of the rebellion in 1861, he espoused the Union cause, and was active in recruiting troops for the service.

He took a deep interest in educational matters, serving actively in the City Board of Education of Dayton for a period of six years, and he was always prominent in every movement for either the moral or intellectual advancement of our citizens.

In religion, he was, both from education and inclination, a Methodist, and that church bestowed upon him its highest honors.

He was a member of every electoral conference of his jurisdiction, which has been held since the introduction of lay delegation, and he also served as a member of the general conference.

He attended the Centennial at Baltimore at the request of the bishop of his church, as the representative of the laity of the Cincinnati Conference.

Judge Elliott was especially prominent in connection with the organization of the Ohio State Bar Association, in which he felt a deep interest. And upon the death of the lamented General Ward, he succeeded that eminent lawyer as chairman of its committee on judicial administration and legal reform, in which position, as elsewhere, he did much toward promoting law reform in Ohio.

In that capacity, too, he wrote and submitted to the State Bar Association, at its meeting held in the year 1885, an elaborate report in favor of codification, which was indorsed by the Association.

He had much to do with the movement for the formation of our present Circuit Court, and with preparing the bill for its organization, which became the law under which it is now constituted.

At the meeting of the State Bar Association held at Put-in-Bay in July, 1890, he was, by unanimous vote, elected president for the ensuing year, and his address on assuming the duties of the office was one of marked ability, evincing great care and research in its preparation.

In May, 1888, as a delegate from the Montgomery Bar Association, he attended a convention called at the national capital for the purpose of organizing a National Bar Association, and of that body he became an active and efficient member.

In 1850 Judge Elliott married Rebecca, daughter of John and Rebecca Snavely, and his wife and two daughters, out of five children born to them, survive him.

In his domestic relations, he was most fortunate and happy. He was strongly attached to his home and family, and was an affectionate and devoted husband and father; and his social qualities in all respects were excellent.

It is a coincidence worthy of remembrance, that the death of Judge Elliott has been separated only by an interval of a few weeks from that of Judge Daniel A. Haynes, who for so many years presided concurrently with him over the courts of Montgomery county.

And it is characteristic of the man, that his last appearance in public among his brethren at the bar, was when, at great risk to his own life, he left his bed of sickness, to be present at the meeting held to do honor to his departed friend.

[VII]

MEMORIAL UPON THE LATE HONORABLE FRANK H. HURD.

BY A COMMITTEE OF THE TOLEDO BAR ASSOCIATION.

Frank Hunt Hurd was born in the town of Mt. Vernon, at the old Hurd homestead, on December 25, 1840. His father was the Hon. Rollin C. Hurd, at one time judge of the Court of Common Pleas of Knox county, and author of "Hurd on Habeas Corpus."

Judge Hurd was a distinguished compeer of Tom Ewing, Hocking Hunter, Henry Stansberry, Rufus P. Ranney, Allen G. Thurman, and the giants of those days.

Mary B. Hurd, the mother of Frank Hurd, was the daughter of Daniel S. Norton, a pioneer of Knox county, and sister of Daniel S. Norton, jr., United States senator from Minnesota. The parents of Frank Hurd were distinguished by a refined and generous hospitality, a liberal charity, and were universally beloved by the community in which they lived.

Judge Hurd personally superintended his son's education up to the time he entered Kenyon college, and a great deal of the wonderful purity and simplicity of his diction is due to the Latin and Greek classics instilled into his mind by his patient father, in the early days when it was plastic and impressionable.

Mr. Hurd graduated at Kenyon in the class of '58 at the age of 17, receiving the honor of class orator. He studied law with his father in Mt. Vernon, O., and was admitted to the bar in 1861, when he was 21 years of age. In 1863 he was elected prosecuting attorney of Knox county, which office he filled with

credit. In 1866 he was elected to the state senate from the Knox district, and served one term with distinction. At this time he prepared the Criminal Code that was afterwards enacted into law by the Ohio Legislature. Mr. Hurd introduced into this code the provision permitting the accused to testify. The State of Ohio, at his suggestion, was one of the first to adopt this humane provision, which has now become nearly universal in the laws of this and other countries.

Mr. Hurd removed to Toledo in 1869, and with Charles H. Scribner, formed a law partnership under the name of Scribner & Hurd. The office of Scribner & Hurd was originally in the northeast corner of the Drummond block, immediately in the rear of the law office of Kent, Newton & Pugsley. The law offices of M. R. & R. Waite were in the southwest corner of this building. When these gentlemen removed to the Chamber of Commerce, Scribner & Hurd took possession of their old quarters, and remained there until the firm was finally dissolved, January 1, 1894. In the early seventies Desault B. Kirk became a member of the firm, but in a short time retired, abandoned the law and entered a commercial business at Mt. Vernon, Ohio. In 1872 Harvey Scribner was taken into the firm and the name was changed to Scribner, Hurd & Scribner, under which it continued until the election of Charles H. Scribner to the Circuit bench, from which time Mr. Hurd and Harvey Scribner continued the practice under the name of Scribner & Hurd, until January 1, 1894, when this firm was dissolved, and Mr. Hurd, Orville S. Brumback and Chas. A. Thatcher organized a law firm under the name of Hurd, Brumback & Thatcher. The new firm opened offices in the Gardner block, at which place they continued in the practice of law down to the time of Mr. Hurd's death, July 10, 1896.

Mr. Hurd was elected city solicitor of the city of Toledo in 1871, and re-elected in 1873, and was elected to Congress in 1874, in 1878 and in 1882. In his first term he secured an appropriation

for the channel of the Maumee river of $75,000, the largest appropriation up to that time that had been made for that purpose.

During the campaign of 1874, in a speech from the steps of the old postoffice, he pledged himself, if elected, to secure a new government building for Toledo to cost not less than $500,000. He was elected and the new building stands there a monument to his untiring industry and fidelity to the interests of his constituents. He secured a separation of the northern district of Ohio into two divisions, and a separate United States Court for Toledo.

During his last term he secured an appropriation for the construction of a straight channel from the mouth of the Maumee river into Lake Erie. This improvement, the cost of which will run into the millions, is of incalculable benefit to the city of Toledo and the commerce of the Great Lakes. He served with distinguished ability on the committee of ways and means and the judiciary committee, and was the recognized peer of the eminent lawyers who constituted the latter.

During his first term in Congress, he revised and republished his father's work on "Habeas Corpus," a standard authority on that subject in America and England.

In 1876 what is known as the greenback craze swept over the country. While some of the ablest men in his party weakened and surrendered to this delusion, Mr. Hurd never for a moment wavered in his advocacy of an American dollar that should be equal to the best dollar in the world. His fidelity to this principle cost him his election to Congress that year.

In the face of a strong popular sentiment favorable to the protective tariff, he advocated taking all restrictions from trade excepting a tariff for revenue, and the freest possible commercial relations between the United States and all other countries in the world. He was the pioneer in the work of establishing this principle in American politics. As an advocate of that doctrine his

fame will be illustrious in all time, equally with that of its greatest apostles in the old and new worlds.

From the time he retired from Congress in 1884 down to the time of his death, he devoted himself actively and exclusively to the practice of his profession. He did his work thoroughly and conscientiously. For days and nights before the time set for the trial of his cases, he worked with a feverish activity, overhauling the books in his own library and in the library of the Law Association, until he had run down every authority that could have any possible bearing on any question that could be raised on either side of the case, and when the time for trial arrived, he was often elaborately equipped on questions that his opponents had overlooked and that were never raised. His resources were almost inexhaustible. The situation never became so dangerous or the case so desperate but he would discover some authority or devise some plan that would enable himself and his associate to escape the impending disaster. His suggestions in such emergencies were often in the nature of an inspiration, astonishing and dazzling both friends and foes. He enjoyed the preparation of his cases and delighted in the excitement and conflict of the trial.

His power to sway a jury or public audience was of the very highest order. His personal presence on such occasions was dignified, commanding, animated and fascinating. His arguments to the jury were short, not usually occupying more than half or three-quarters of an hour, and were models of orderly sequence, linguistic purity and logical reasoning. His audience felt his magnetic qualities the moment he opened his lips.

He commenced a speech or argument quietly and in tones that were musical and exquisitely modulated. As he proceeded, his voice swelled to a diapason that thrilled and electrified his auditors, his sentences flowing in a torrent of reasoning and vivid imagery that was simply irresistible. His adversaries paid the highest possible compliment to his oratory when, for the purpose

of avoiding its disastrous effect, they permitted their cases to go to the jury without answering the opening argument.

He never under any circumstances indulged in personalities, and treated his opponents with a uniform courtesy and consideration that won from them their warmest regard and respect. He lost sight of everything but the great questions involved in his case, and addressed himself to crystalizing and presenting them in the strongest and most favorable light for his client. From the time he entered his father's office to the day of his death, he was a close and continuous student of the law. Nature gave him great talents and even genius, and these he trained and disciplined to the highest point to which they were susceptible, in the study of the law and its scientific and literary accessories.

The money he earned he lavished prodigally on his friends and distributed to objects of charity. It gave him pain to see suffering and not be able to relieve it. In his case it was truly a greater pleasure to give than to receive.

He was a true child of nature and sympathized with the lowliest and humblest of her children. In politics and the law he championed the cause of the unfortunate and oppressed. Of his great earnings he retained for himself only sufficient for his personal expenses—the rest he gave freely and gladly to his fellows.

In all his relations in life he was the soul of honor, incapable of descending to anything that was petty or mean. His disposition was kind and affectionate, gentle and winning, attaching the life-long friendship of those who came closely in contact with him. He had the highest sense of the honor of our profession and was scrupulously careful to observe all the rules laid down by its ethics.

From the commencement of his career to the end he was an enthusiastic worker. He had been confined to his room but a week before he died. On the day after his death, friends who visited his office found books scattered upon the floor and lying

open with places marked upon his table, and memoranda in his handwriting on his desk, just as he had left them the day he was taken sick.

We can very well say of him what in his life he ardently wished should be said, "That he died in the harness."

[VIII]

MEMORIAL ON THE LATE JUDGE WALTER S. DILATUSH.

By a Committee of the Warren County Bar Association.

Walter S. Dilatush was born in Union township, Warren county, O., October 28, 1853. On the second day of October, 1895, after an illness of about five weeks, having not quite reached the age of forty-two years, he died at his home near Lebanon.

His boyhood years were spent on the farm. Here, to the training of wise parents were added only the advantages of the common school, but in this he was so diligent a student, that at the age of twenty he secured a certificate from the board of school examiners of Warren county, and became himself a teacher in one of the public schools of his native township. Later he entered the National Normal University, graduating from the scientific class of that institution in 1876, and from the classic class in 1877. His next two school years were spent in the law department of the Iowa State University, from which he graduated with high class honors, in 1879. Returning to Warren county, he was admitted to the bar on the 24th day of July, 1879.

The practice of his profession, which he then commenced in Lebanon, he continued there until his election as judge of the Court of Common Pleas in 1891. He entered upon the duties of this position in February, 1892, and these duties he continued to perform until the business of the present term was nearly completed.

He, whose early demise is now recorded and deeply mourned by the members of the bar of this county, was honorable in every business transaction, true in every friendship, and kind, companionable and lovable in every social relation. As judge, he was careful, patient, fair and just. While never severe in his judgments, he faithfully administered the law. While duly maintaining the authority and dignity of the court, his kind and considerate treatment of attorneys practicing before him will ever be to them a pleasing memory.

On the 21st day of August, 1879, he whose empty chair is before us, was married to Miss Annie Bone. To them, during their sixteen years of happy union, were born six children. She and they all survive to suffer the irreparable loss of an affectionate husband and father.

[IX]

HONORABLE L. J. CRITCHFIELD.

A MEMORIAL ADOPTED BY THE FRANKLIN COUNTY BAR ASSOCIATION.

Hon. L. J. Critchfield was born at Danville, Knox county, O., January 13, 1827. At the age of eight years he removed with his parents to Millersburg, Holmes county, O., where he spent the earlier years of his life, receiving such scholastic training as was afforded in the public schools of that place. When only fifteen years of age he was appointed to a clerical position in the office of the clerk of the courts of Holmes county, where he remained two years, and became familiar with the forms and methods of judicial procedure. He then formed a resolution to adopt the practice of the law as his calling. With that end in view, and to lay the foundation of a broader culture than the common schools afforded, he entered the Ohio Wesleyan University at Delaware, O., from which he graduated in the regular course and subsequently completed the study of the law, and was admitted to the bar by the Supreme Court of Ohio in banc in 1849.

He immediately commenced the practice of the law in Delaware, and in the following year he was elected prosecuting attorney for Delaware county. The duties of this important office were performed by him so efficiently, that he was re-elected without serious opposition. Upon the expiration of his second term, he declined another re-election. In December, 1856, the Supreme Court of Ohio appointed him reporter of its decisions, and he served for five consecutive terms of three years each.

During this time he published seventeen volumes of the Ohio State Reports. Although such eminent lawyers as Charles Ham-

mand and P. B. Wilcox had been reporters of the decisions of the Supreme Court, the causes determined by that court had never been more accurately and skillfully reported than during the fifteen years of service rendered by Mr. Critchfield, and the bar of Ohio will ever owe a debt of gratitude to him for this work.

Notwithstanding the bench and bar of the state were anxious to still receive the benefit of his services, he felt constrained at the conclusion of his fifth term to decline another reappointment, in order that he might devote his entire time and energies to the requirements of his profession, which had steadily increased during his residence in Columbus.

In 1858, at the request of Judge Joseph R. Swan, Mr. Critchfield joined him in the preparation and publication of "Swan and Critchfield's Revised Statutes of Ohio, with Notes of Decisions of the Supreme Court." This revision was published in 1860, and was received with great satisfaction by the bench, the bar and the public. It remained in force until 1880, when it was superseded by the "Revised Statutes of Ohio," prepared by a commission appointed by Governor Hayes, pursuant to an act of the General Assembly. Mr. Critchfield was tendered an appointment on this commission by the Governor, but was compelled to decline it on account of the pressure of the duties of his profession, although many members of the bench and bar urged him to accept it. He felt that his obligations to his clients and to his family were superior to any call for further official service.

In 1859 Noah H. Swayne, one of the leading members of the bar of Columbus and of Ohio, requested Mr. Critchfield to become his co-partner in the practice of law. This offer was accepted

The partnership continued until the senior member became one of the justices of the Supreme Court of the United States on the 24th of January, 1862. From that time until his decease Mr. Critchfield continued in the practice of his profession alone.

While he gave diligent attention to the interests of his clients, he was not unmindful of his duties as a citizen.

He felt a deep interest in the cause of popular education which he manifested by giving considerable time and labor to promote it. For many years he was a member of the Board of Education of Columbus, and trustee of the Ohio Wesleyan University. He also took an active part in organizing the public library of Columbus, acting as a member of the committee that adopted the plan upon which this library is now conducted.

Although he never held any political office, he took a deep interest in public affairs. He was one of the delegates to the national convention which nominated General R. B. Hayes for the presidency, and during the campaign and the controversy consequent upon the election, he was one of General Hayes' closest friends and most valued advisers.

In a letter to Senator Sherman, he earnestly advised the employment of counsel to present and argue the cause before the electoral commission. His suggestion was adopted and, with possibly one exception, the eminent lawyers suggested by Mr. Critchfield were employed and acted as counsel for General Hayes and the Republican party in that celebrated case.

Mr. Critchfield was thoroughly appreciative of the moral principles which underlie the correct and honorable practice of the law, and no one ever more faithfully carried them into practical, personal execution. He had a profound knowledge of law, and was much devoted to his profession. He was a diligent student of the law, but took time for general reading and cultivation. He prepared every cause in which he was counsel with great care, industry and thoroughness. His presentation of the law and the facts in his cases was singularly clear, and was strengthened by his charming refinement of manner, his scholarly and concise use of language, and his fairness, candor and spotless integrity. In the argument of a cause he never made un-

warranted attacks upon private character, nor did he indulge in reckless imputations of bad motives. In his manner at the bar he set an example of perfection in courtesy. Everything he did and said was tempered by sobriety of mind and self-control; but when occasion required and justified plain speaking and firmness, in order to vindicate the rights of his clients, or to maintain his own rights as counsel at the bar, he did not hesitate to speak and act with manliness and courage. His simplicity of manner, his entire freedom from assumption, his gentleness of disposition, and kindness and tenderness of heart, endeared him to his professional brethren and to all who knew him.

Mr. Critchfield discharged every duty with alacrity. He was as generous as he was just. He was the soul of honor in all the relations of life. In every personal relation he was a good man to know, a better man to love as relative or friend.

He made the consciousness of rectitude, and not fame, the main object of his life. He was a man of sincere religious convictions and of deep religious feeling; and his daily walk was that of a traveler on the straight and narrow path to the Celestial City. His conduct was always consistent with his professions. Socially he was pleasant and affable. There was not a single drop of fanatical or cranky blood in his veins. In his judgments concerning the failings, the weaknesses and the delinquencies of his fellow-men, he was charitable. There was nothing but kindliness in his heart for any human being.

Mr. Critchfield's most remarkable endowment was not his great intellectual distinction, brilliant imaginative force, or striking originality of mind, but a character which united in itself the rarest gentleness and the sternest sense of duty and resolve to do it. This was the fragrant beauty and glory of his well-spent life.

[X]

MEMORIAL ON THE LATE ALEXANDER W. SCOTT.

By a Committee of the Toledo Bar Association.

Mr. Alexander W. Scott, a member of the Lucas County Bar, died at his residence at Toledo, on the 9th day of March, 1896, after an illness of nearly seven months. Mr. Scott was born in Bucyrus, Crawford county, O., March 18, 1840. His father was Judge Josiah Scott, for more than twenty years a judge of the Supreme Court of Ohio. Mr. Scott graduated at Jefferson College, Pennsylvania, and immediately enlisted with a number of his classmates in the army of the Union.

In 1862 the Ninety-third Regiment, Ohio Volunteer Infantry, was recruited in the vicinity of Dayton, and Mr. Scott, who with his father's family had for some years been living at Hamilton, was among the first to enlist in that regiment. On the 17th of October, 1862, he was commissioned as second lieutenant. The regiment was then commanded by Colonel Charles Anderson, afterwards Governor of Ohio. In November, 1862, Mr. Scott was promoted to first lieutenant, his commission bearing date November 21st. He was with the regiment at Nashville in December, 1862, at the Battle of Stone River, where the regiment was part of Baldwin's brigade in Johnson's division, and where it suffered severely in the fighting on December 31st. He commanded his company in the marches to Liberty Gap, Tullakoma, Bellefonte and Stevenson, when it crossed Lookout Mountain and bivouacked in the valley below Chattanooga. Here he was taken sick, resigned in the fall of 1863, and returned to Hamilton. He recovered sufficiently, however, to return to his regiment before his

resignation was accepted, was mustered out as captain, and returned to Hamilton, where he was admitted to the bar and commenced his practice of the law.

On October 16, 1866, he was married to Cornelia A. Corwin, at Hamilton. During his early practice he was for several years in partnership with James E. Campbell, afterwards Governor of Ohio.

In 1875 he moved to New Lexington, Perry county, O., to take charge of the legal business of the Ohio Central Railroad company, then constructing its railroad, as the general counsel of the company. When the road was completed, and its general offices moved to Toledo, Mr. Scott also moved to that city, where he has since resided. He retained the position of general counsel for this railroad company up to the time of his death. He was also general counsel for the Michigan and Ohio Railroad company, and its receiver until it was merged with the Cincinnati, Jackson and Mackinaw. In April, 1885, he formed a partnership with John H. Doyle, of Toledo, the firm being Doyle & Scott, until the admission soon thereafter of Mr. Charles T. Lewis to the firm, since which time the firm name has been Doyle, Scott & Lewis, and this partnership continued until Mr. Scott's death.

Mr. Scott was a Mason, having been a member of the lodge, chapter and commandery, of which latter he was a past eminent commander, and was at the time of his death a member of the Grand Commandery of Ohio.

At the time of his death his family consisted of his wife, Mrs, Cornelia Corwin Scott, and his three children, Catherine Falconer Bissell, wife of Frederick Bissell, Josiah Scott and Donald Corwin Scott.

In thus giving some of the events in the life of Mr. Scott, his associates at the bar of Lucas county, and the members of this Association, bear testimony that his extreme modesty, his dislike for ostentation or parade, and his steadfast refusal to talk

about himself or his deeds, or to allow them to be recorded, makes it difficult to give the importance to many of his achievements that they are justly entitled to.

We know that he filled a prominent place at the bar and in the community; that he was an able and conscientious lawyer, transacting business of great importance with marked skill and proficiency. He had a strong, clear and logical mind, thoroughly disciplined by study and application. In his railroad work as counsel, he filled a place and won his way into the confidence and affection of his associate officers that will be hard to fill, and to them his death is a great bereavement.

With that part of the community at large, with whom he came in contact or associated, he was a general favorite. So much so, that very few men had as many warm personal friends or were so generally liked. And this was just. He deserved to be admired and loved. He had a refined and scholarly taste, which he cultivated on all occasions. He was a scholar in books and a scholar in nature, and the study of books and the study of nature were his constant delight. He was a humanitarian in the truest sense. No honest appeal for help or advice was ever turned away from him without response in liberal measure. He was touched and pained at the ills and misfortunes of others, and rejoiced in their happiness and prosperity. He had a keen sense of justice, and all forms of oppression and wrong found in him an unflinching foe. He was a brave man, physically and morally; a man without fear for himself, and timid only for his family and friends, the fear of pain or misfortune to whom was his only fear. He loved his home and its surroundings, which he filled with brightness and sunshine, and during his long and painful sickness, his greeting was always a smile and words of patience and resignation. Strong in Christian faith, he had no fear of death.

[XI]

JOHN LUTHER LEONARD.

By Smith W. Bennett.

List, while the living speak of the virtues of the dead; then if thou findest that he who speaks has not o'er told his worth, say, that he loved the dead, and loving him he loved the truth.

John Luther Leonard was born on a farm in the vicinity of Spring Hills, Champaign county, O., on the 29th day of November, 1858, and died in the city of Bucyrus, O., August 27, 1895. The opening and close of a life more helpful of others than of self. The writer did not become acquainted with him until the winter of 1880, but from relatives he has gathered the following facts concerning him:

His elementary education, in the main, was received in the district schools of his township, which he attended during his boyhood, at such times as opportunities might offer. Never blessed with a strong constitution, he was compelled to encounter difficulties in his search for knowledge that have served to appall more robust natures. Having finished the course that such schools prescribe, he made his own way to a higher education, which consisted of about a three-years' course, partly at Ada University and partly at Mt. Union College. Returning for a time to live upon the farm, he commenced reading law at home, and afterwards in the office of General R. P. Kennedy, of Bellefontaine, O., from whose office he was admitted to the bar of Ohio in January, 1881. About the same time he was united in marriage to Miss Carrie Blocher at West Liberty, Logan county, O. He immediately came to Bucyrus, O., and located in the practice of the law in partnership with Hon. A. M. Ensminger, now post-

master at Bucyrus. This partnership continued for some years, when it was dissolved by mutual consent, after which Mr. Leonard continued alone in the practice to the day of his death.

In speaking of his death, one of his home papers, the Journal, said of him:

"Living as he did, as perfect as man can live, always aiding others, the friend of every one, and with a kind word and kindly look for everybody, the news of his death was received with astonishment. His whole life had been spent in an earnest, honest desire to do right, regardless of consequences, and his every aim and desire was to act and live as a Christian should, and his hope and belief was to die as the Christian dies."

He was a consistent member of the First M. E. church of Bucyrus, and not only by his early training, but by nature and inclination, he was a good and true man. His language was at all times chaste and refined; his presence was a bar to an impure story, and had in it that indefinable virtue that forbade one to think ill of him.

I cannot think if Mr. Leonard had lived he would ever have made a great trial lawyer, his natural inclination was not in that direction; but he possessed in a high degree that which is nobler—the elements of a chancellor. He avoided the strife and vexations of the forum, and ever counselled peace, adjustments, and arbitration, to avoid expensive litigation. Early in his practice he evidenced a hatred for all those technical rules of the law that frequently keep a meritorious case from being won, and sometimes place a premium upon dishonesty. He carried into each cause his own high ideals; he labored incessantly to win, and if he ever failed, it could not be attributed to a lack of industry and devotion to his client's interests.

He died while yet a young man, but leaves behind a memory fragrant with deeds of generosity, with a diffusion of good, with a rectitude of character unquestioned.

[XII]

MEMORIAL ON THE LATE JUDGE A. Z. THOMAS.

By J. J. Moore.

Judge A. Z. Thomas, a member of the State Bar Association, departed this life at his home in Ottawa, O., February 11, 1896. He was born in Trumbull county, O., November 27, 1829.

Judge Thomas spent his early life upon a farm, and while thus employed, acquired sufficient education to teach in the country schools of his neighborhood. With the means thus obtained he was enabled to enter Allegheny College, at Meadville, Pa., from which institution he was graduated in 1859. After again teaching for some time, he became a student in the well-known law office of Burchard & Moses, of Warren, O., and was admitted to the practice of the law in 1865. He did not commence the active practice of his profession, however, until 1870, at which time he entered into a law partnership with Stansberry Sutton, at Ottawa, O., which continued until the death of Mr. Sutton in 1879. In 1882 the law firm of Thomas & Sutton was formed, which consisted of Judge Thomas and Hon. W. W. Sutton, and which continued until February, 1891. In 1890 Judge Thomas became the nominee of the Democratic party for the office of probate judge, to which office he was elected, and in 1893 re-elected, and which position he held at the time of his death.

Judge Thomas as a man was firm and exact in all his dealings, and his integrity was above all suspicion. His word was his bond. As a citizen he enjoyed the confidence and respect of all who knew him, and he was always found on the side of good citizenship and the advocate of law and order. As a lawyer Judge

Thomas was always courteous and gentlemanly; as conscientious in his work in the profession as in his dealings with his fellowmen. He won and had the respect and confidence of the profession. While not a brilliant man, he was careful, methodical and logical. He never did or resorted to a dishonest act to enhance his cause. In his official capacity, Judge Thomas exhibited the same traits of character as in his private life. And in the administration of his office was scrupulously conscientious and painstaking. He required from executors, administrators and guardians the same exactness and care which he himself exercised.

In brief, Judge Thomas was always governed by an earnest, conscientious desire to discharge faithfully and honestly each and every duty and trust imposed upon him. On March 9, 1876, Judge Thomas was married to Miss Anna R. Hagenbaugh, of Greene county, O.

His married life was a happy one. His home was to him a haven of rest. When not at his labor professionally or officially, it was there he was found. In the companionship of his wife, in the home he so revered, he was content. He had in every avocation of life in which he had engaged, as teacher, lawyer, judge, performed faithfully his part.

[XIII]

MEMORIAL UPON THE LIFE AND CHARACTER OF THE LATE DANIEL E. THOMAS.

Late a Member of the Lucas County Bar.

BY A COMMITTEE OF THE TOLEDO BAR ASSOCIATION.

Daniel E. Thomas was born March 16, 1846, at Quincy, Mich., and died at Toledo, O., May 6, 1896.

His high ideas and unswerving integrity, together with his feeling a loyalty and patriotism, made him one of the very best of citizens. He was liberal to a fault, both with his time and his not over abundant means. The needs of his unfortunate fellows and the affairs of his community, his city and his church, appealed to him with a force that the majority of men know nothing of.

In addition to his common school education, he was graduated from both the Dowagiac High School and Kalamazoo College. As a result of a studious life he constantly gave evidence of scholarly attainments. He was a firm believer in the public schools, and the fact that he spent some years of his life as the principal of schools at South Haven, Dowagiac, Wyandotte and Big Rapids, Mich., and later was the professor of mathematics in the Milwaukee, Wis., Academy, probably had much to do with the unusual interest which he so often manifested in young people of all classes and conditions.

He studied law and was admitted to practice in the common law state of Michigan, in 1873. During his twelve years' practice in that state, his office and home were at Sturgis, in St. Joe county.

In this time, he, with great credit to himself and unusual satisfaction to the court, the bar and the people, held the office of Circuit Court commissioner for several years, and with even greater success and more universal satisfaction, he held the office of prosecuting attorney for his county for two full terms. As prosecuting attorney he fully believed and acted upon the theory that the certainty of punishment under the criminal law, rather than the severity of the punishment, was the real preventive of crime. Whether his theory be true or not, it has been noted and commented upon, that the present extraordinary good criminal record of St. Joe county, Mich., began with the conscientious and skillful official work of Daniel E. Thomas as its prosecuting attorney.

In time his practice became one of the most desirable in his county. His Michigan supreme cases form a full bound volume, and several of his cases have made the law of the State of Michigan as to the points involved.

He came to Toledo in 1885, and for seven years continued successfully in the general practice of law as a member of the firm of Thomas & Heitt. After this, to the time of his death, with well merited success, he practiced his profession alone. Though in his later years he had given some special attention to patent law, yet in variety of information and all around ability as a lawyer he had few equals. As counsel he was safe, for in addition to his legal ability, he was possessed with unusual good judgment, and he was conscientious at all times and in all things.

His wife, formerly Miss Agnes O. VanHorne, of Marshall, Mich., with three sons, survive him.

To the good influence of his beautiful home life he yielded most willingly, and this made him and kept him the pure Christian gentleman that he was.

[XIV]

IN MEMORY OF THE LATE JUDGE JOHN M. LEMMON.

Late of the Sandusky County Bar.

Hon. John M. Lemmon died Saturday morning, August 17, 1895, at his late residence in Clyde, O., after a long and painful illness. For a number of years Judge Lemmon had been in very poor health, but as he himself often stated, his stubbornness and will power kept him up and around. His death, however, had been anticipated for several weeks.

Sandusky county has raised but few men more widely and favorably known than Judge Lemmon. Born and raised in this county, he was known to every one, and his acquaintance was not purely local, but extended throughout northern Ohio.

John McIntyre Lemmon was born in Townsend township, this county, July 25, 1839. He remained at home until eighteen years of age and received a common school education. He taught school and attended Oberlin College. In the spring of 1859 he went to Missouri, where he entered the law office of Erastus McIntyre and J. Proctor Knott. He was admitted to the bar in April, 1860, and soon after returned home.

In April, 1861, he enlisted in Company F, Eighth Ohio, in the three months' service, and was discharged the following August. October 9, 1861, he again enlisted in Company B, Seventy-second Ohio Volunteer Infantry, and continued in the service of this gallant regiment until June 2, 1865, when he was mustered out as captain. During part of the war he was on detached duty as judge advocate of a military commission at Memphis.

When the village of Clyde was incorporated in May, 1866, Mr. Lemmon was chosen its first mayor. In 1866, Mr. Lemmon was appointed common pleas udge of this judicial district, and served ten months, resigning just before, fall election. The deceased was one of the most studious, active and industrious members of the bar, and enjoyed a very large practice. His energy and industry brought him into great prominence in this section of the state, and his services were always in great demand. As an advocate at the bar he had few equals. He was eloquent, and possessed that force and clearness of statements, that carried conviction to court and jury. He accumulated much money and property from his extensive practice.

Judge Lemmon was positive in all his beliefs. He early espoused the Republican cause, and was ever true to beliefs. He was a lover of his country. He was a friend firm and true, a lawyer of great ability, a worker who worked far beyond his strength. An upright judge, an honest man.

In March, 1864, Mr. Lemmon was married to Miss Annie Covell, the wife who survives him. One son also survives.

[XV]

IN MEMORY OF THE LATE ROBERT H. COCHRAN,

Of the Lucas County, Ohio, Bar.

BY A COMMITTEE OF THE TOLEDO BAR ASSOCIATION.

Robert Henry Cochran was born in Belmont county, O., nearly opposite the city of Wheeling, May 25, 1836, died at Toledo, O., February 22, 1896, and was therefore nearly 60 years of age at the time of his death. His ancestry was English, and included, it is said, the adventurous and daring Lord Dundolald; but there was also an admixture of Scotch, Irish and Welsh blood in his veins. For three generations this family had lived near Wheeling, his greatgrandfather, a soldier of the revolution, having been killed near there by Indians. Robert was brought up on a farm, the eldest child among eight boys and five girls, in those straightened circumstances which were all but universal in those days. His father was a man of exceedingly generous disposition, and used, so the mother claimed, even to go and call in tramps to feed them.

Young Cochran early showed those intensely social traits that characterized him through life. He used to be active in getting up all manner of literary societies and the like. As his father could not afford to buy him books, he used to earn enough by odd jobs to buy them one at a time. This he would read to his brothers, sisters and friends, until they had got all out of it that they could, when he would walk many miles with it to Wheeling, and supplementing it with a few cents, trade it off for another volume. Such, no doubt, is a fair illustration of the "child

penury" in which our fathers were reared, and to which the present effulgent age looks back with astonishment. Poor, however, as people were, they were as rich as their neighbors, and their self-respect was not shocked by the great contrasts of modern society. Their hardships were cheerfully borne because they were universal; and their poverty never even checked the spirit of hopefulness and sturdy self-reliant independence.

After going through the local schools Robert went to Richmond College, Jefferson county, and later to a Pittsburg business college, contributing meanwhile to his own support by teaching school. The overflowing generosity of his nature was especially displayed towards his pupils, by whom he was greatly beloved. On the last day of his school teaching he made every pupil a present, and one of his pupils still remembers the heart-broken feelings of the children as he parted from them. While still teaching he began to read law, and in 1860 was admitted to the bar. Shortly afterward he was married to Miss Mattie M. Dakin, of Princeton, Illinois.

The ardent temperament of Judge Cochran rendered it impossible that he should stay at home during the war. In August, 1861, he enlisted as a private in the Fifteenth Ohio Volunteer Infantry. Five of his brothers, one only 13 years of age, followed him into the war. In the army his advancement was rapid and he filled many positions with distinction. He lost, however, his health, and after a prolonged period of illness was obliged to return home. Here he was soon elected prosecuting attorney, and within a few years followed various other public positions. In 1869 he removed to Wheeling, where he was likewise active in public affairs, serving a term as judge of the county court, and one as member of the board of education.

About this time he began to take an active interest in the project that has developed into the Wheeling & Lake Erie rail-

road. His untiring zeal and energy were no doubt the principal factor in the construction of this line. For a time he was managing director of the company; afterward for several years its chief counsel. A misunderstanding, however, arose, and he retired from the company. He then undertook the construction of a great bridge across the Ohio river at Wheeling, together with terminals in the city. In this, too, he succeeded, and these two great public works stand today as a witness of his energy and ability. They are proud monuments for a man to leave behind, however little may have been his profit in their building.

Since 1862 Judge Cochran has resided, with his family, in Toledo. During much of the time he has been busied with the Wheeling Bridge company and has been absent from the city a great deal. Nevertheless, no social movement, no public enterprise, could be mooted, but it engaged his earnest attention and in most cases his hearty support. His large social nature found outlet in connecting himself with innumerable societies and orders, in several of which he attained high rank.

Into the sacred circle of his family life we may not enter. But there, no doubt, he found his greatest happiness and truest satisfaction. He had six sons and two daughters, and it sometimes seemed that he looked on the whole world through a father's eyes. If one spoke in his presence a little impulsively or warmly, he would smile in an indulgent, amused and sympathetic way, as if he had seen a good deal of youthful impetuosity before.

Judge Cochran was a man of large ideas. If his predominant passion had been for money, a million would have seemed a mere bagatelle to him. Of a most hopeful, sanguine, disposition, obstacles always appeared to him as mere details, deserving small consideration. At the time of his death he had some large scheme in contemplation. The president of our Chamber of Commerce has told me that he felt obliged several times to chide

Judge Cochran for his too-ready generosity. He was always for lending himself and his own comparatively small means to every need. Intensely social, public spirited, hopeful, generous, progressive, he was in all things a typical American. Peace to his ashes; and to his family the soothing consciousness of a love which altereth not the benediction of a well-spent life.

MORTUARY LIST.

MORTUARY LIST.

NAME.	BECAME MEMBER.	DEATH.	MEMORIAL.	RESIDENCE.
Adams, Hon. Perry M.	1889	August 22, 1891	Rep. 13, 34, 155	Tiffin.
Ashburn, Hon. T. Q.	Ex-officio	January 17, 1890	Rep. 11, 44	Batavia.
Atherton, Hon. Gibson	Ex-officio	November 10, 1887	Rep. 8, 187	Newark.
Barber, Col. Llewellyn	1880	July 25, 1885	Rep. 9, 285	Columbus.
Baker, William	Original	November 17, 1894	Rep. 16, 123	Toledo.
Baldwin, Hon. Chas. C.	1889	February 2, 1895	Rep. 16, 119	Cleveland.
Bartley, Hon. Thos. W.	Ex-officio	June 20, 1885		Washington, D. C.
Bates, Hon. James L.	1880	May 2, 1895	Rep. 11, 276	Columbus.
Beavis, Hon. Benj. R.	1880	March 4, 1884		Cleveland.
Bishop, Hon. J. P.	Original	October 28, 1881		Cleveland.
Brinkerhoff, Hon. Jacob	Ex-officio	July 19, 1880		Mansfield.
Buckland, Hon. Ralph P.	Original	May 27, 1892	Rep. 13, 33, 205	Fremont.
Campbell, J. V.	1882	July 2, 1888	Rep. 9, 49, and 11, 288	Eaton.
Carhart, Henry Clay	1880	April 17, 1893	Rep. 14, 29	Galion.
Carper, H. M.	1883			Delaware.
Chamberlain, H. A.	1881	February 18, 1884		Toledo.
Cochran, Robert Henry	1895	February 22, 1896	Rep. 17, 249	Toledo.
Collins, Frances	1880	August 31, 1882	Rep. 9, 137	Columbus.
Colver, Hon. Elisha M.	Original	September 24, 1895		Sandusky.
Conklin, Hon. J. S.	1882	October 1, 1887		Sidney.
Cook, Asher	1889	January 1, 1892	Rep. 13, 34	Perrysburgh.
Cowan, Hon. Allen T.	1883	June 21, 1891	Rep. 13, 33	Batavia.
Culbertson, W. C.	1889	December 22, 1894	Rep. 16, 147	Mt. Vernon.
Critchfield, Hon. L. J.	Original	February 19, 1896	Rep. 17, 233	Columbus.
Cunningham, Hon. Theo E.	1883	April 14, 1889	Rep. 10, 43-46	Lima.

MORTUARY LIST—Continued.

NAME.	BECAME MEMBER.	DEATH.	MEMORIAL.	RESIDENCE.
Daugherty, Hon. M. A.	1880	January 15, 1887	Rep. 8, 190	Columbus.
Day, Hon. Luther	Original	March 7, 1885		Ravenna.
DeWitt, Hon. James L.	1890	October 11, 1890	Rep. 12, 49, 190	Sandusky.
Dilatush, Hon. W. S.	1888	October 2, 1895	Rep. 17, 231	Lebanon.
Dowdall, Edward J.	1881	April 5, 1890		Columbus.
Dunn, Hon. A. K.	Original	April 29, 1890	Rep. 11, 47	Mt. Gilead.
Edwards, J. M.	Original	December 8, 1886		Youngstown.
Elliott, Hon. Henderson	Original	June 24, 1896	Rep. 17, 219	Dayton.
Foster, Hon. Edward	1880	April 17, 1883		Bryan.
Geddes, Hon Geo. W.	1892	November 9, 1892	Rep. 14, 131	Mansfield.
Gerard, C. W.	1891	September 24, 1894	Rep. 16	Cincinnati.
Goode, Frank C.	Original	November 29, 1887		Springfield.
Goode, Hon James S.	1880	April 19, 1891	Rep. 12, 33-36, 37, 41	Springfield.
Goodhue, Hon. N. W.	1880	September 12, 1883		Akron.
Green, Hon. Edwin P.	Original	December 23, 1894	Rep. 16, 127	Akron.
Guthrie, Hon. E. A.	1892	July 12, 1893		Athens.
Hamilton, W. B.	1880	September 23, 1887		Richwood.
Hanna, Hon. J. E.	1893	August 30, 1894	Rep. 16	McConnelsville.
Hurd, Hon. Frank H.	1896	July 10, 1896	Rep. 17, 225	Toledo.
Hutchins, W. A.	1880	January 22, 1895		Portsmouth.
Horton, J. D.	Original	September 14, 1882		Ravenna.
Houk, Hon. Geo. W.	Original	February 9, 1884	Rep. 15, 131	Dayton.
Johnson, Hon. W. W.	Ex-officio	March 2, 1882		Ironton.
Keith, Myron R.	Original	August 14, 1893	Rep. 15, 30, 32	Cleveland.
Kent, Hon. Chas.	Original	July 9, 1888	Rep. 9, 45	Toledo.
Kennon, Hon. William	Ex-officio	November 2, 1881		St. Clairsville.
King, Hon. Rufus	1880	March 25, 1891	Rep. 12, 38-43, 47, 181	Cincinnati.
Kramar, A.	1881	August 10, 1885		Oak Harbor.
Lee, Hon. John C.	Original	March 23, 1891	Rep. 12, 29, 44, 46, 182	Toledo.
Lemmon, Hon. John M.	1892	August 17, 1895	Rep. 17, 247	Clyde.

MORTUARY LIST—Continued.

NAME.	BECAME MEMBER.	DEATH.	MEMORIAL.	RESIDENCE.
Leonard, J. L.	1890	September 3, 1895	Rep. 17, 241	Bucyrus.
Longworth, Hon. Nicholas	1882	January 17, 1890	Rep. 11, 43	Cincinnati.
Mason, Hon. James	1880	January 5, 1885	Rep. 9, 43	Cleveland.
Matthews, Hon. Stanley	Original	March 22, 1889	Rep. 10, 40, 43	Washington, D. C.
McIlvaine, Hon. Geo. W.	Ex-officio	December 22, 1887		New Philadelphia.
Moore, Col. Oscar F.	1880	June 24, 1885		Portsmouth.
Noble, Hon. Henry C.	1880	December 12, 1890	Rep. 12, 28, 50, 192	Columbus.
Odell, Hon. Morgan N.	1881	October 29, 1888	Rep. 10, 46-50	Toledo.
Okey, Hon. John W.	Ex-officio	July 25, 1885		Columbus.
Olds, Hon. Chauncey N.	1880	February 11, 1890	Rep. 11, 282	Columbus.
Owesney, W. A.	1880	April 18, 1886		Steubenville.
Perry, Aaron Fife	1882	March 11, 1893	Rep. 14, 158	Cincinnati.
Pillars, Hon. Isaiah	1880	September 13, 1895		Lima.
Price, J. F.	1881	August 8, 1887		Toledo.
Ranney, Hon. Rufus P.	Original	December 6, 1891	Rep. 13, 187	Cleveland.
Sadler, Hon. E. B.	1881	March 26, 1888		Sandusky.
Scott, A. W.	1891	March 9, 1896	Rep. 17, 237	Toledo.
Sherman, Henry S.	1890	February 24, 1893	Rep. 15, 31, 121	Cleveland.
Sherwood, Hon. William E.	1890	September 23, 1892	Rep. 14, 165	Cleveland.
Slattery, John A.	1883	December 23, 1895		Cincinnati.
Spence, George	1881	February 6, 1895	Rep. 16, 135	Springfield.
Spaulding, Hon. Rufus P.	Ex-officio	August 29, 1886	Rep. 9, 143	Cleveland.
Swan, Hon. Joseph R.	Ex-officio	December 18, 1885	Rep 5, 50	Columbus.
Swayne, Hon. Noah H.	Ex-officio	June 8, 1884	Rep. 5, 42	New York.
Thomas, A. Z.	1891	February 11, 1896	Rep. 17, 243	Ottawa.
Thomas, D. E.	1891	May 6, 1896	Rep. 17, 245	Toledo.
Thomas, W. B.	Original	September 12, 1886		Ravenna.
Thompson, George K.	1882	January 27, 1890	Rep. 11, 45	Cincinnati.
Tilden, Hon. M. H.	1882	February 23, 1888		Cincinnati.
Thompson, Hon. Samuel J.	1882	October 14, 1895		Cincinnati.

MORTUARY LIST—Concluded.

NAME.	BECAME MEMBER.	DEATH.	MEMORIAL.	RESIDENCE.
Thurman, Hon. Allen G.	Ex-officio	December 12, 1895	Rep. 17, 145, 211	Columbus.
Train, A. W.	1880	May 13, 1891	Rep. 12, 201	Zanesville.
Tyler, Hon. Joel W.	Original	September 14, 1894		Cleveland.
Van Fleet, H. T.	1880	November 28, 1891	Rep. 13, 32	Marion.
Ward, Gen. Durbin	Original	May 22, 1886	Rep. 9, 139	Lebanon.
Waters, Octavius	1881	July 8, 1886		Delta.
Waite, Hon. Morrison R.	Ex-officio	March 23, 1888	Rep. 9, 173	Washington, D. C.
Waite, Edward Tinker	1880	December 23, 1889	Rep. 11, 289	Toledo.
Welch, Hon. John	Ex-officio	August 6, 1891	Rep. 13, 31, 33, 209	Athens.
White, Hon. William	Original	March 12, 1883	Rep. 6, 219	Springfield.
White, Hon. Charles R.	Original	July 29, 1890	Rep. 12, 32, 36	Springfield.
Wilder, Hon. Horace	Ex-officio	December 26, 1889	Rep. 11, 290	Red Wing, Minn.
Wildes, Gen. Thomas F.	1880	March 28, 1883		Akron.
Willey, George	Original	December 29, 1884		Cleveland.
Woodbury, Hon. Hamilton	Original	June 19, 1895	Rep. 16, 141	Jefferson.
Wright, Hon. James E.	1880	November 17, 1890	Rep. 12, 50, 184	Worthington.
Young, Hon. E. S.	1882	February 14, 1888	Rep. 10, 82	Dayton.

MORTUARY LIST.

NAME.	BECAME MEMBER.	DEATH.	MEMORIAL.	RESIDENCE.
Adams, Hon. Perry M.	1889	August 22, 1891	Rep. 13, 34, 155	Tiffin.
Ashburn, Hon. T. Q.	Ex-officio	January 17, 1890	Rep. 11, 44	Batavia.
Atherton, Hon. Gibson	Ex-officio	November 10, 1887	Rep. 8, 187	Newark.
Barber, Col. Llewellyn	1880	July 25, 1885	Rep. 9, 285	Columbus.
Baker, William	Original	November 17, 1894	Rep. 16, 123	Toledo.
Baldwin, Hon. Chas. C.	1889	February 2, 1895	Rep. 16, 119	Cleveland.
Bartley, Hon. Thos. W.	Ex-officio	June 20, 1885		Washington, D. C.
Bates, Hon. James L.	1880	May 2, 1895	Rep. 11, 276	Columbus.
Beavis, Hon. Benj. R.	1880	March 4, 1884		Cleveland.
Bishop, Hon. J. P.	Original	October 28, 1881		Cleveland.
Brinkerhoff, Hon. Jacob	Ex-officio	July 19, 1880		Mansfield.
Buckland, Hon. Ralph P.	Original	May 27, 1892	Rep. 13, 33, 205	Fremont.
Campbell. J. V.	1882	July 2, 1888	Rep. 9, 49, and 11, 288	Eaton.
Carhart, Henry Clay	1880	April 17, 1893	Rep. 14, 29	Galion.
Carper, H. M.	1883			Delaware.
Chamberlain, H. A.	1881	February 18, 1884		Toledo.
Cochran, Robert Henry	1895	February 22, 1896	Rep. 17, 249	Toledo.
Collins, Frances	1880	August 31, 1882	Rep. 9, 137	Columbus.
Colver, Hon. Elisha M.	Original	September 24, 1895		Sandusky.
Conklin, Hon. J. S.	1882	October 1, 1887		Sidney.
Cook, Asher	1889	January 1, 1892	Rep. 13, 34	Perrysburgh.
Cowan, Hon. Allen T.	1883	June 21, 1891	Rep. 13, 33	Batavia.
Culbertson, W. C.	1889	December 22, 1894	Rep. 16, 147	Mt. Vernon.
Critchfield, Hon. L. J.	Original	February 19, 1896	Rep. 17, 233	Columbus.
Cunningham, Hon. Theo E.	1883	April 14, 1889	Rep. 10, 43-46	Lima.

MORTUARY LIST—Continued.

NAME.	BECAME MEMBER.	DEATH.	MEMORIAL.	RESIDENCE.
Daugherty, Hon. M. A.	1880	January 15, 1887	Rep. 8, 190	Columbus.
Day, Hon. Luther	Original	March 7, 1885		Ravenna.
DeWitt, Hon. James L.	1890	October 11, 1890	Rep. 12, 49, 190	Sandusky.
Dilatush, Hon. W. S.	1888	October 2, 1895	Rep. 17, 231	Lebanon.
Dowdall, Edward J.	1881	April 5, 1890		Columbus.
Dunn, Hon. A. K.	Original	April 29, 1890	Rep. 11, 47	Mt. Gilead.
Edwards, J. M.	Original	December 8, 1886		Youngstown.
Elliott, Hon. Henderson	Original	June 24, 1896	Rep. 17, 219	Dayton.
Foster, Hon. Edward	1880	April 17, 1883		Bryan.
Geddes, Hon Geo. W.	1892	November 9, 1892	Rep. 14, 131	Mansfield.
Gerard, C. W.	1891	September 24, 1894	Rep. 16	Cincinnati.
Goode, Frank C.	Original	November 29, 1887		Springfield.
Goode, Hon James S.	1880	April 19, 1891	Rep. 12, 33-36, 37, 41	Springfield.
Goodhue, Hon. N. W.	1880	September 12, 1883		Akron.
Green, Hon. Edwin P.	Original	December 23, 1894	Rep. 16, 127	Akron.
Guthrie, Hon. E. A.	1892	July 12, 1893		Athens.
Hamilton, W. B.	1880	September 23, 1887		Richwood.
Hanna, Hon. J. E.	1893	August 30, 1894	Rep. 16	McConnelsville.
Hurd, Hon. Frank H.	1896	July 10, 1896	Rep. 17, 225	Toledo.
Hutchins, W. A.	1880	January 22, 1895		Portsmouth.
Horton, J. D.	Original	September 14, 1882		Ravenna.
Houk, Hon. Geo. W.	Original	February 9, 1884	Rep. 15, 131	Dayton.
Johnson, Hon. W. W.	Ex-officio	March 2, 1882		Ironton.
Keith, Myron R.	Original	August 14, 1893	Rep. 15, 30, 32	Cleveland.
Kent, Hon. Chas.	Original	July 9, 1888	Rep. 9, 45	Toledo.
Kennon, Hon. William	Ex-officio	November 2, 1881		St. Clairsville.
King, Hon. Rufus	1880	March 25, 1891	Rep. 12, 38-43, 47, 181	Cincinnati.
Kramar, A.	1881	August 10, 1885		Oak Harbor.
Lee, Hon. John C.	Original	March 23, 1891	Rep. 12, 29, 44, 46, 182	Toledo.
Lemmon, Hon. John M.	1892	August 17, 1895	Rep. 17, 247	Clyde.

MORTUARY LIST—Continued.

NAME.	BECAME MEMBER.	DEATH.	MEMORIAL.	RESIDENCE.
Leonard, J. L	1890	September 3, 1895	Rep. 17, 241	Bucyrus.
Longworth, Hon. Nicholas	1882	January 17, 1890	Rep. 11, 43	Cincinnati.
Mason, Hon. James	1880	January 5, 1885	Rep. 9, 43	Cleveland.
Matthews, Hon. Stanley	Original	March 22, 1889	Rep. 10, 40, 43	Washington, D. C.
McIlvaine, Hon. Geo. W	Ex-officio	December 22, 1887		New Philadelphia.
Moore, Col. Oscar F	1880	June 24, 1885		Portsmouth.
Noble, Hon. Henry C	1880	December 12, 1890	Rep. 12, 28, 50, 192	Columbus.
Odell, Hon. Morgan N	1881	October 29, 1888	Rep. 10, 46-50	Toledo.
Okey, Hon. John W	Ex-officio	July 25, 1885		Columbus.
Olds, Hon. Chauncey N	1880	February 11, 1890	Rep. 11, 282	Columbus.
Owesney, W. A	1880	April 18, 1886		Steubenville.
Perry, Aaron Fife	1882	March 11, 1893	Rep. 14, 158	Cincinnati.
Pillars, Hon. Isaiah	1880	September 13, 1895		Lima.
Price, J. F	1881	August 8, 1887		Toledo.
Ranney, Hon. Rufus P	Original	December 6, 1891	Rep. 13, 187	Cleveland.
Sadler, Hon. E. B	1881	March 26, 1888		Sandusky.
Scott, A. W	1891	March 9, 1896	Rep. 17, 237	Toledo.
Sherman, Henry S	1890	February 24, 1893	Rep. 15, 31, 121	Cleveland.
Sherwood, Hon. William E	1890	September 23, 1892	Rep. 14, 165	Cleveland.
Slattery, John A	1883	December 23, 1895		Cincinnati.
Spence, George	1881	February 6, 1895	Rep. 16, 135	Springfield.
Spaulding, Hon. Rufus P	Ex-officio	August 29, 1886	Rep. 9, 143	Cleveland.
Swan, Hon. Joseph R	Ex-officio	December 18, 1885	Rep 5, 50	Columbus.
Swayne, Hon. Noah H	Ex-officio	June 8, 1884	Rep. 5, 42	New York.
Thomas, A. Z	1891	February 11, 1896	Rep. 17, 243	Ottawa.
Thomas, D. E	1891	May 6, 1896	Rep. 17, 245	Toledo.
Thomas, W. B	Original	September 12, 1886		Ravenna.
Thompson, George K	1882	January 27, 1890	Rep. 11, 45	Cincinnati.
Tilden, Hon. M. H	1882	February 23, 1888		Cincinnati.
Thompson, Hon. Samuel J	1882	October 14, 1895		Cincinnati.

MORTUARY LIST—Concluded.

NAME.	BECAME MEMBER.	DEATH.	MEMORIAL.	RESIDENCE.
Thurman, Hon. Allen G.	Ex-officio	December 12, 1895	Rep. 17, 145, 211	Columbus.
Train, A. W.	1880	May 13, 1891	Rep. 12, 201	Zanesville.
Tyler, Hon. Joel W.	Original	September 14, 1894		Cleveland.
Van Fleet, H. T.	1880	November 28, 1891	Rep. 13, 32	Marion.
Ward, Gen. Durbin	Original	May 22, 1886	Rep. 9, 139	Lebanon.
Waters, Octavius	1881	July 8, 1886		Delta.
Waite, Hon. Morrison R.	Ex-officio	March 23, 1888	Rep. 9, 173	Washington, D. C.
Waite, Edward Tinker	1880	December 23, 1889	Rep. 11, 289	Toledo.
Welch, Hon. John	Ex-officio	August 6, 1891	Rep. 13, 31, 33, 209	Athens.
White, Hon. William	Original	March 12, 1883	Rep. 6, 219	Springfield.
White, Hon. Charles R.	Original	July 29, 1890	Rep. 12, 32, 36	Springfield.
Wilder, Hon. Horace	Ex-officio	December 26, 1889	Rep. 11, 290	Red Wing, Minn.
Wildes, Gen. Thomas F.	1880	March 28, 1883		Akron.
Willey, George	Original	December 29, 1884		Cleveland.
Woodbury, Hon. Hamilton	Original	June 19, 1895	Rep. 16, 141	Jefferson.
Wright, Hon. James E.	1880	November 17, 1890	Rep. 12, 50, 184	Worthington.
Young, Hon. E. S.	1882	February 14, 1888	Rep. 10, 82	Dayton.

MORTUARY LIST.

NAME.	BECAME MEMBER.	DEATH.	MEMORIAL.	RESIDENCE.
Adams, Hon. Perry M.	1889	August 22, 1891	Rep. 13, 34, 155	Tiffin.
Ashburn, Hon. T. Q.	Ex-officio	January 17, 1890	Rep. 11, 44	Batavia.
Atherton, Hon. Gibson	Ex-officio	November 10, 1887	Rep. 8, 187	Newark.
Barber, Col. Llewellyn	1880	July 25, 1885	Rep. 9, 285	Columbus.
Baker, William	Original	November 17, 1894	Rep. 16, 123	Toledo.
Baldwin, Hon. Chas. C.	1889	February 2, 1895	Rep. 16, 119	Cleveland.
Bartley, Hon. Thos. W.	Ex-officio	June 20, 1885		Washington, D. C.
Bates, Hon. James L.	1880	May 2, 1895	Rep. 11, 276	Columbus.
Beavis, Hon. Benj. R.	1880	March 4, 1884		Cleveland.
Bishop, Hon. J. P.	Original	October 28, 1881		Cleveland.
Brinkerhoff, Hon. Jacob	Ex-officio	July 19, 1880		Mansfield.
Buckland, Hon. Ralph P.	Original	May 27, 1892	Rep. 13, 33, 205	Fremont.
Campbell, J. V.	1882	July 2, 1888	Rep. 9, 49, and 11, 288	Eaton.
Carhart, Henry Clay	1880	April 17, 1893	Rep. 14, 29	Galion.
Carper, H. M.	1883			Delaware.
Chamberlain, H. A.	1881	February 18, 1884		Toledo.
Cochran, Robert Henry	1895	February 22, 1896	Rep. 17, 249	Toledo.
Collins, Frances	1880	August 31, 1882	Rep. 9, 137	Columbus.
Colver, Hon. Elisha M.	Original	September 24, 1895		Sandusky.
Conklin, Hon. J. S.	1882	October 1, 1887		Sidney.
Cook, Asher	1889	January 1, 1892	Rep. 13, 34	Perrysburgh.
Cowan, Hon. Allen T.	1883	June 21, 1891	Rep. 13, 33	Batavia.
Culbertson, W. C.	1889	December 22, 1894	Rep. 16, 147	Mt. Vernon.
Critchfield, Hon. L. J.	Original	February 19, 1896	Rep. 17, 233	Columbus.
Cunningham, Hon. Theo E.	1883	April 14, 1889	Rep. 10, 43-46	Lima.

MORTUARY LIST—Continued.

NAME.	BECAME MEMBER.	DEATH.	MEMORIAL.	RESIDENCE.
Daugherty, Hon. M. A.	1880	January 15, 1887	Rep. 8, 190	Columbus.
Day, Hon. Luther	Original	March 7, 1885		Ravenna.
DeWitt, Hon. James L.	1890	October 11, 1890	Rep. 12, 49, 190	Sandusky.
Dilatush, Hon. W. S.	1888	October 2, 1895	Rep. 17, 231	Lebanon.
Dowdall, Edward J.	1881	April 5, 1890		Columbus.
Dunn, Hon. A. K.	Original	April 29, 1890	Rep. 11, 47	Mt. Gilead.
Edwards, J. M.	Original	December 8, 1886		Youngstown.
Elliott, Hon. Henderson	Original	June 24, 1896	Rep. 17, 219	Dayton.
Foster, Hon. Edward	1880	April 17, 1883		Bryan.
Geddes, Hon Geo. W.	1892	November 9, 1892	Rep. 14, 131	Mansfield.
Gerard, C. W.	1891	September 24, 1894	Rep. 16	Cincinnati.
Goode, Frank C.	Original	November 29, 1887		Springfield.
Goode, Hon James S.	1880	April 19, 1891	Rep. 12, 33-36, 37, 41	Springfield.
Goodhue, Hon. N. W.	1880	September 12, 1883		Akron.
Green, Hon. Edwin P.	Original	December 23, 1894	Rep. 16, 127	Akron.
Guthrie, Hon. E. A.	1892	July 12, 1893		Athens.
Hamilton, W. B.	1880	September 23, 1887		Richwood.
Hanna, Hon. J. E.	1893	August 30, 1894	Rep. 16	McConnelsville.
Hurd, Hon. Frank H.	1896	July 10, 1896	Rep. 17, 225	Toledo.
Hutchins, W. A.	1880	January 22, 1895		Portsmouth.
Horton, J. D.	Original	September 14, 1882		Ravenna.
Houk, Hon. Geo. W.	Original	February 9, 1884	Rep. 15, 131	Dayton.
Johnson, Hon. W. W.	Ex-officio	March 2, 1882		Ironton.
Keith, Myron R.	Original	August 14, 1893	Rep. 15, 30, 32	Cleveland.
Kent, Hon. Chas.	Original	July 9, 1888	Rep. 9, 45	Toledo.
Kennon, Hon. William	Ex-officio	November 2, 1881		St. Clairsville.
King, Hon. Rufus	1880	March 25, 1891	Rep. 12, 38-43, 47, 181	Cincinnati.
Kramar, A.	1881	August 10, 1885		Oak Harbor.
Lee, Hon. John C.	Original	March 23, 1891	Rep. 12, 29, 44, 46, 182	Toledo.
Lemmon, Hon. John M.	1892	August 17, 1895	Rep. 17, 247	Clyde.

MORTUARY LIST—Continued.

NAME.	BECAME MEMBER.	DEATH.	MEMORIAL.	RESIDENCE.
Leonard, J. L.	1890	September 3, 1895	Rep. 17, 241	Bucyrus.
Longworth, Hon. Nicholas	1882	January 17, 1890	Rep. 11, 43	Cincinnati.
Mason, Hon. James	1880	January 5, 1885	Rep. 9, 43	Cleveland.
Matthews, Hon. Stanley	Original	March 22, 1889	Rep. 10, 40, 43	Washington, D. C.
McIlvaine, Hon. Geo. W.	Ex-officio	December 22, 1887		New Philadelphia.
Moore, Col. Oscar F.	1880	June 24, 1885		Portsmouth.
Noble, Hon. Henry C.	1880	December 12, 1890	Rep. 12, 28, 50, 192	Columbus.
Odell, Hon. Morgan N.	1881	October 29, 1888	Rep. 10, 46-50	Toledo.
Okey, Hon. John W.	Ex-officio	July 25, 1885		Columbus.
Olds, Hon. Chauncey N.	1880	February 11, 1890	Rep. 11, 282	Columbus.
Owesney, W. A.	1880	April 18, 1886		Steubenville.
Perry, Aaron Fife	1882	March 11, 1893	Rep. 14, 158	Cincinnati.
Pillars, Hon. Isaiah	1880	September 13, 1895		Lima.
Price, J. F.	1881	August 8, 1887		Toledo.
Ranney, Hon. Rufus P.	Original	December 6, 1891	Rep. 13, 187	Cleveland.
Sadler, Hon. E. B.	1881	March 26, 1888		Sandusky.
Scott, A. W.	1891	March 9, 1896	Rep. 17, 237	Toledo.
Sherman, Henry S.	1890	February 24, 1893	Rep. 15, 31, 121	Cleveland.
Sherwood, Hon. William E.	1890	September 23, 1892	Rep. 14, 165	Cleveland.
Slattery, John A.	1883	December 23, 1895		Cincinnati.
Spence, George	1881	February 6, 1895	Rep. 16, 135	Springfield.
Spaulding, Hon. Rufus P.	Ex-officio	August 29, 1886	Rep. 9, 143	Cleveland.
Swan, Hon. Joseph R.	Ex-officio	December 18, 1885	Rep 5, 50	Columbus.
Swayne, Hon. Noah H.	Ex-officio	June 8, 1884	Rep. 5, 42	New York.
Thomas, A. Z.	1891	February 11, 1896	Rep. 17, 243	Ottawa.
Thomas, D. E.	1891	May 6, 1896	Rep. 17, 245	Toledo.
Thomas, W. B.	Original	September 12, 1886		Ravenna.
Thompson, George K.	1882	January 27, 1890	Rep. 11, 45	Cincinnati.
Tilden, Hon. M. H.	1882	February 23, 1888		Cincinnati.
Thompson, Hon. Samuel J.	1882	October 14, 1895		Cincinnati.

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Train, A. W.	1880	May 13, 1891	Rep. 12, 201	Zanesville.
Tyler, Hon. Joel W.	Original	September 14, 1894		Cleveland.
Van Fleet, H. T.	1880	November 28, 1891	Rep. 13, 32	Marion.
Ward, Gen. Durbin	Original	May 22, 1886	Rep. 9, 139	Lebanon.
Waters, Octavius	1881	July 8, 1886		Delta.
Waite, Hon. Morrison R.	Ex-officio	March 23, 1888	Rep. 9, 173	Washington, D. C.
Waite, Edward Tinker	1880	December 23, 1889	Rep. 11, 289	Toledo.
Welch, Hon. John	Ex-officio	August 6, 1891	Rep. 13, 31, 33, 209	Athens.
White, Hon. William	Original	March 12, 1883	Rep. 6, 219	Springfield.
White, Hon. Charles R.	Original	July 29, 1890	Rep. 12, 32, 36	Springfield.
Wilder, Hon. Horace	Ex-officio	December 26, 1889	Rep. 11, 290	Red Wing, Minn.
Wildes, Gen. Thomas F.	1880	March 28, 1883		Akron.
Willey, George	Original	December 29, 1884		Cleveland.
Woodbury, Hon. Hamilton	Original	June 19, 1895	Rep. 16, 141	Jefferson.
Wright, Hon. James E.	1880	November 17, 1890	Rep. 12, 50, 184	Worthington.
Young, Hon. E. S.	1882	February 14, 1888	Rep. 10, 82	Dayton.